

Digitized by the Internet Archive
in 2022 with funding from
University of Toronto

<https://archive.org/details/31761114658362>

CA20N
XC14
-578

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT

THURSDAY, AUGUST 11, 1988

Morning Sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Philip, Ed (Etobicoke-Rexdale NDP)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

Cunningham, Dianne E. (London North PC) for Mr. Sterling

Epp, Herbert A. (Waterloo North L) for Mr. Keyes

Jackson, Cameron (Burlington South PC) for Mr. Cureatz

Pelissero, Harry E. (Lincoln L) for Ms. Poole

Roberts, Marietta L. D. (Elgin L) for Ms. Hart

Clerk: Deller, Deborah

Staff:

Swift, Susan, Research Officer, Legislative Research Service

Witnesses:

From the Ministry of the Solicitor General:

Spring, David, Director, Legal Branch

From United Senior Citizens of Ontario Inc.:

Mansfield, Alex, President

King, Joyce, Past President

From the United Church of Canada:

Greene, Dr. Bonnie, Director, Church in Society

Jones, the Reverend David

From Citizens for Public Justice:

Carrick, Wayne, Member, Provincial Executive Committee

Smart, Steven, Member, Provincial Executive Committee

Vandezande, Gerald, Public Affairs Director

From the Coalition Against Open Sunday Shopping:

Silverthorn, Mark, Corporate Secretary; Canadian Retail Hardware Association



LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, August 11, 1988

The committee met at 10:07 a.m. in room 151.

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT
(continued)

Consideration of Bill 113, An Act to amend the Retail Business Holidays Act, and Bill 114, an Act to amend the Employment Standards Act.

Mr. Chairman: I understand that before we proceed, we have two motions. I hope it is going to be very brief on both counts, because we have people here who have a very tight schedule and we have people who got here at 10 o'clock to be heard.

Mr. Philip: I have a motion arising out of a matter that I consider to be very serious. I do not want to keep our witnesses waiting.

Mr. Chairman: Mr. Philip moves that the chairman invite the Honourable Joan Smith, Solicitor General of Ontario, to reappear before the standing committee on administration of justice at 9 a.m. August 15 or, failing this, at the next earliest date available to the minister when the committee is holding sittings in Toronto; furthermore, that the minister be informed that the purpose of this recall is to question her on the serious differences between her testimony of August 3 and that of representatives of the Association of Municipalities of Ontario on August 9 and of the large urban section of the Association of Municipalities of Ontario on August 10.

I will accept that motion, but in order to avoid holding up the deputants who are here, I am going to suggest, and I hope someone would move, that the motion be deferred until 12 o'clock or thereafter, when we can debate it.

Mr. Philip: That would be acceptable to me, if you might allow me one minute. In order to make sure that I did not take up a lot of time of the committee, I have a prepared statement as to why I would like this motion passed. Then perhaps the members would like to think about the contents of my statement and we can debate the statement at 12:30 or whenever you deem is appropriate.

Mr. Chairman: If I could just say this to you, Mr. Philip, I understand Mr. Jackson has a motion as well. I am going to receive that in the same vein and request that be put over until noon or thereafter to be debated.

Mr. Philip: I am asking for one minute. You are taking up more than one minute.

Mr. Chairman: Let me just tell you, Mr. Philip, if I give you one minute, I am sure that is going to evoke a request by other members of the committee perhaps, for one minute or three minutes. The next thing you know, the United Senior Citizens of Ontario, who were here at 10 o'clock this morning, will be heard at 10:30 or 10:45.

The business of this committee is to deal with as many deputants as we can, as you know. Everybody has been most co-operative. You will have a perfect opportunity to do this, I am not going to prevent you from doing it, but at this time I think what we are doing is just interfering with witnesses.

I am going to call on Mr. Jackson to put his motion.

Mr. Philip: I am simply asking for one minute to explain to the members what the debate will be about at 12:30 so that they may have time, if they wish, to have their researchers fully appropriate Hansards and therefore be prepared for the debate.

Mr. Chairman: I think the motion is perfectly clear to me. If it is not clear to any other member, perhaps he or she would so indicate.

Mr. Epp: I understand English.

Mr. Philip: It is clear to me that members of this committee have been misled, and I believe that members of this committee have an obligation to get to the truth. An organization has been slandered by the Solicitor General (Mrs. Smith), and we have a right to get to the bottom of it.

Mr. Chairman: I am ruling that in the interests of the people who are appearing before this committee, they are entitled to be heard first. You have put your motion, which I have accepted. It is perfectly in order. You will have an opportunity, as will Mr. Jackson with reference to his motion, to deal with it at 12 o'clock or at the time we are able to get to it, but I really think that if you put one minute or two minutes, I have a pretty good feeling there will be other two-minute discussions and we are going to get into about 10:30 or 10:45. I do not think that is fair to the United Senior Citizens.

Mr. Philip: I hope it is the United Senior Citizens and not the minister you are trying to protect.

Mr. Chairman: I am not at all. Mr. Jackson, you have a motion as well.

Mr. Jackson: I have circulated a copy with background materials to all members of the committee. I would like to read my motion into the record.

Mr. Chairman: Mr. Jackson moves that the committee transmit the following message to the three party House leaders and the three party whips:

"Given the following considerations:

"1. The standing committee on the Legislative Assembly is scheduled to visit Fredericton, New Brunswick, from October 2 to October 5 in order to attend meetings on (a) televising proceedings in that Legislature, (b) building restoration and (c) rules of procedure in a one-party assembly;

"2. This trip is of questionable value to the taxpayers of Ontario;

"3. The Legislative Assembly committee has already come under criticism for travelling at a cost of \$37,000 to Reno, Nevada, to attend the week-long 1988 US Conference of State Legislatures, a convention at which Ontario was represented by more politicians than many American states;

"4. Of this trip, Premier Peterson was quoted as saying that the travel priorities of the Legislative Assembly committee are 'worthy of review' and, further, that 'maybe this trip has no utility';

"5. From October 5 to October 6 New Brunswick's standing committee on law amendments is scheduled to hold public hearings on Bill 60, An Act to amend the Days of Rest Act;

"6. The said Bill 60 will abolish that province's municipal option on Sunday store openings and replace it with a tourist exemption;

"7. The experience of New Brunswick can inform and guide Ontario as it considers Bills 113 and 114;

"8. A trip to study New Brunswick's experience with the municipal option is worth more to the taxpayers of Ontario than a trip to study what it feels like to hold all the seats in a Legislature; and

"9. By order of the House dated June 29, the whips and House leaders have the power to amend the schedule of summer committee sittings;

"We therefore request that you use this power to cancel the Legislative Assembly committee's trip to Fredericton and substitute instead a trip by the standing committee on administration of justice to attend New Brunswick's public hearings into Bill 60."

We will do the same as we did with Mr. Philip. We will adjourn it to either 12, 12:30 or at such time as we have finished hearing the deputants.

Having said that, I would like to call the first deputation, which is the United Senior Citizens of Ontario: Joyce King, president, and Alex Mansfield, first vice-president. Would you come forward, please?

UNITED SENIOR CITIZENS OF ONTARIO INC.

Mrs. King: I would like to correct something that just happened yesterday afternoon. As of one o'clock yesterday afternoon, I became the past president of the United Senior Citizens of Ontario and Mr. Mansfield became the president.

Mr. Chairman: I see. All right.

Interjection: Congratulations.

Mrs. King: Thank you. I am glad you said it to me as past president.

Mr. Chairman: If you could identify yourself for purposes of Hansard, we have allowed half an hour for each deputation. You can use all or any part of that for your deputation. It would be much appreciated, though, if you would leave time for members to ask questions.

UNITED SENIOR CITIZENS OF ONTARIO INC.

Mrs. King: We will be very brief in our submission. I am Joyce King, past president of the United Senior Citizens of Ontario Inc.

Mr. Mansfield: I am Alex Mansfield, president.

Mrs. King: May I read my submission for the record?

Mr. Chairman: By all means.

Mrs. King: We wish to thank you for the opportunity to present our views to you on open Sunday shopping. The United Senior Citizens of Ontario Inc. is an organization representing over 1,100 senior citizen clubs, groups and councils. The membership is estimated to be between 300,000 and 350,000 retired persons. The principal mandate of our organization is to better the quality of life of the senior citizens of Ontario. We believe open Sunday shopping will deteriorate the quality of life for senior citizens.

Let me give you a personal example of open Sunday shopping changing the quality of my life. I have two great-grandchildren. We are a very close family and Sunday is our day for getting together. The only day on which I can visit with my great-grandchildren, along with both their parents, is on Sunday. If either my grandson or my granddaughter-in-law has to work on a Sunday, it will be impossible to continue these visits as they are now held. This is a personal example, but I am sure there are many senior citizens in Ontario in the same position as I.

The stand taken by the United Senior Citizens of Ontario on open Sunday shopping is not that of the members of the executive board alone. Through our monthly newsletter, we polled our affiliated clubs, and the response we received from over 100 communities was negative; seniors simply do not want Ontario to have open Sundays. The percentage of our members against the issue is 97.7 per cent.

Another issue to which the seniors take exception is that the province is giving the responsibility of deciding whether to have open Sundays over to the municipalities. We elect our representatives to the Ontario Legislature, believing that they are intelligent and astute enough to write legislation and to pass laws to cover the residents of Ontario. Abdicating this responsibility, by turning over what they claim is an unenforceable law to the municipalities, is, in the opinion of our seniors, totally wrong.

Another aspect of having stores open seven days a week which is worrisome to our seniors is the probable increase in costs to the consumer. There is only so much expendable income in a week. If this income is spent over seven days instead of six, costs will inevitably rise. It will obviously be more expensive to the storekeeper to be open that extra day. It has been publicly estimated that costs will rise anywhere from 6 to 15 per cent. This will create a hardship on seniors, who for the most part are living on fixed incomes which are already too low.

We cannot understand the change in opinion of those members of the Legislature who sat on the select committee in 1986 and who declared at that time that Ontario should indeed have a common pause day. That committee was very definitely not in favour of open Sundays. We have to wonder what has caused them to change their minds.

We have read Bill 113 and Bill 114 and we really do not feel the worker will be protected under either of these acts. For the employee to have to prove that a request from his or her employer to work on Sunday is unreasonable is almost impossible. The employee, because he or she will be afraid of losing his or her job, will of course not complain. I asked the Minister of Labour (Mr. Sorbara) at a meeting if he felt his ministry could

handle all the complaints it would receive. His reply was that he did not feel there would be any complaints. He was probably right. If an employee lodged a complaint against his or her employer, how long would it take for that complaint to be resolved, and if in the meantime, that employee was out of work, what would he or she then live on?

A document has come to our attention in which probable questions which would be asked of the committee are included. Also included in that document are the answers which the Liberal members of the committee have been told to use. In that case, what is the purpose of these hearings? If each Liberal member is not going to be allowed to answer a question about his personal view on open Sunday shopping, of what value is the question?

1020

In the long run, every member of the Ontario Legislature will have to answer to his or her own constituents. Given the widely voiced disapproval of open Sunday shopping by the residents of Ontario, I am sure there will be many Liberals who will be in disfavour in their own ridings. It is then incomprehensible to us that these members of the Legislature would not be allowed by their party to answer a question about their own opinions honestly.

Open Sunday shopping, as proposed by the government, to be decided by each municipality, is not an issue which will be forgotten. It will affect the lives of Ontario workers for all time to come. It will be remembered by seniors and others in 1991. Although Mrs. Smith has declared that she will not allow the threat of losing votes to affect her decision, it is something the Liberal Party should be taking into consideration.

Rest assured that the senior citizens of Ontario are taking this issue very seriously. They, along with many other citizens of Ontario, do not want wide-open Sundays. They do want Sunday to continue to be observed as a common pause day, a family day, a day of rest, or call it what you will. As an aside which is not in the brief, most of my generation still call it the Sabbath.

The United Senior Citizens of Ontario Inc., on behalf of its hundreds of thousands of members, therefore urges this government to accept its responsibility in enacting an enforceable bill for the entire province, which will avoid Ontario becoming a patchwork of communities with some open on Sunday and others closed. If Bill 113 is passed in its present form, there will be municipalities that will be forced to open on Sunday whether or not it is their wish to do so.

We are convinced that if municipalities are given the right to decide whether their communities will have open Sunday shopping, other communities in close proximity will, of necessity, have to open on Sunday as well. We will again stress that if the Liberal members of this committee are being instructed on how to answer questions we may ask, then these hearings are merely an exercise in futility.

Mr. Chairman: Is there anything to be added or is that the content of the brief?

Mrs. King: That is it.

Mr. Chairman: I have questioners, and we have roughly 22 minutes, so seven minutes for each caucus.

Mr. Philip: I have worked closely with your association over the years and with members of your association and have known a number of your presidents quite well. I must say I greatly admire the work you have done, not just on behalf of seniors but on behalf of a number of other people on issues that do affect our society.

I think you have certainly dispelled the myth that you cannot teach old dogs new tricks because often it is the old dogs teaching the new dogs about where society should go. You have always been a very progressive and forward-looking organization.

I would like to ask the first question. I wonder if you can supply the committee with a copy of the document that has come to your attention in which probable questions which would be asked of the committee would be included. I am talking about the Liberal document.

Mrs. King: I am sorry. I have seen the document, but I do not have possession of a copy. I am sure you will get one later in the hearing.

Mr. Philip: Oh, fine.

Miss Roberts: Are you going to supply that?

Mrs. King: No, but I am sure there will be other organizations.

Mr. Philip: That have copies of it?

Mrs. King: It was shown to me.

Mr. Philip: Normally, I get copies of things like that, but somehow that has not come to my attention yet. Not that it is of great importance to me, but I think it might provide some interest to some members of the public or to some members of the press.

Mrs. King: Yes. We have thought of that.

Mr. Philip: I find it fascinating that your poll actually showed 97.7 per cent opposed to this legislation. I am wondering, was the return rate on your poll very large?

Mrs. King: We have a copy of the page of the newsletter here to show you. We received, as I said in my submission, responses from over 100 communities, but that means many more than that number of clubs. It was the communities we listed, and it was a very large response.

Mr. Philip: Basically, these would be your local associations, which would have brought it up at their meetings and decided whether or not to support it?

Mrs. King: I will turn it over to Mr. Mansfield. He can hold this up. It is a page out of the letter. You will note on the bottom a coupon for them to return to us: "Are you in favour?" or "Are you not in favour?"

Mr. Philip: Fine.

Mrs. King: Of possibly 50,000 individual people, 97.7 per cent were against open Sunday shopping.

Mr. Philip: I know your association has been very effective nationally as well as provincially. Therefore, I assume you have fairly good contacts with similar, brother or sister organizations across the country. I am wondering if you have any information you would share with us concerning the views of your sister associations in New Brunswick, where the legislation, the municipal option, has actually been reversed, or in British Columbia and Alberta, where the domino theory has worked and large numbers of municipalities are now open as a result.

Mrs. King: Our national federation is probably taking the same type of poll as we did. Having resigned as secretary of the federation last year, I have not had the results, but in talking to personal friends in Alberta, BC and New Brunswick, I would assume from the people I have spoken to, whom I know personally, because my personal friends are senior citizens and are against it, that the general opinion of seniors is against open Sunday shopping in whatever province.

Mr. Philip: The reason I ask is that we had a gentleman present a very large paper and take up so much time that we did not have an opportunity to question him, in which he indicated that in the United States virtually everybody had come around to saying it was a good idea and there were no problems. That is why I am interested in finding out exactly what the opinion is before and after in places like British Columbia, Alberta and Saskatchewan and whether that opinion has changed any in favour of Sunday shopping now that the stores are open.

Mrs. King: I think you will hear that later in the day. I think you all know I am a member of the Coalition Against Open Sunday Shopping, which will be making a presentation later. I will not be speaking, but I will be remaining in the room to hear them.

Why I dislike comparisons between the United States and Canada is that we have a very favourite saying, that if the United States sneezes, Canada catches a cold. Why do we have to be like that? If they want open Sunday shopping, so be it, but there are many communities—I have very close friends and relatives in Pittsburgh—where stores are not open. They do not want them open and they do not go to them if they do open.

Mr. Philip: Thank you. I know my colleague wants to question you. Therefore, I do not want to take up all of our party's time.

Mr. Chairman: You have about a minute and a half, Mr. Hampton.

Mr. Hampton: May I save it and come back later?

Mr. Chairman: We do not have anybody here from the third party.

Miss Roberts: I will have some comments after Mr. Hampton has completed.

Mr. Philip: He has decided to pass.

Mr. Chairman: What we have been doing before, and I think we will continue to practise, is if they split their time, I am going to go on to the next caucus and then we will come back to them.

Miss Roberts: That is fine then. I will do approximately four minutes and I will split my time with someone else.

I would like to thank you very much for coming. It was an excellent brief and very informative, because I have not yet been told how to answer the questions you put to us. I think it is important, if you have that concern and that understanding, that you make it clear that is what you think is happening, because as a person who has to make some of the decision and has to understand what your concerns are, I like to know what you think or perceive to be happening. The people in your organization do an excellent job and have many contacts and have made, I know, my prospect for the future much happier. I thank you very much for that. It is down the road, I hope, a couple of days for me, but I know it is coming.

1030

Mrs. King: The alternative is not good.

Miss Roberts: That is right. That alternative is not a lot of fun, so I hear.

Mr. Philip: You and I may be running against one another for the presidency of the association by then.

Miss Roberts: That is right. I expect you will have gone to your great reward before I get there.

Mr. Chairman: Let's get back on the topic, thank you.

Mr. Philip: You are predicting an earlier death for me than for you, then, obviously.

Mr. Epp: Politically and otherwise?

Miss Roberts: My concern is just precisely how we are going to deal with the legislation we have in place. I just give you a couple of examples, because I come from a community where it is unenforceable. We had a particular situation where it still has not been remedied, it is still in the courts and things are going on with respect to that. We do have a tourist area in our community. There are other areas that want to be tourist areas and they want to be open, but they are behind.

I am not worried completely about just exactly this particular piece of legislation, but how do we deal with Sunday? You are against open Sunday shopping. What would you close down that is already in existence?

You have looked at the provincial framework that we have used to close down many of the stores now in existence, and others will be closed unless municipalities take certain steps; and it is there, it is stronger, there are things that have been used to close Sunday down.

We want to know what you want closed further, what you want to have done to make Sunday the day you think is appropriate and how we protect the workers who are already being forced to work on Sundays.

Mrs. King: That last is a very good question. Of course, we cannot. There are people who must work. There are nurses and many others.

Miss Roberts: And the people on the tourist exemption who already have to.

Mrs. King: The tourist exemption, to me, seems to be rather a specious argument. I rather think the members of this Legislature are intelligent enough to make tourist exemptions that stick. You do not make an exemption, for instance, of a man who wants to sell fur coats and then claims he is a tourist area.

I think tourist area is almost explicit in locality, if you will. Obviously, Muskoka would be a tourist area in the summertime.

Miss Roberts: All of Muskoka—any town, anywhere?

Mrs. King: No. Well, if they wish to open.

Miss Roberts: If they wish to open. I just want to be sure you are right.

Mrs. King: What you are doing is abdicating the responsibility of saying, from the provincial government, "This is the rule." You are asking the municipality to set the rule, and do not think for one minute that the domino effect will not take place; it is already being discussed in my area by the municipalities.

They do not want that law. They do not want it in their laps. I live in a village.. There are several small towns and villages around me. We are going to council meetings where they are discussing: "If Tottenham opens, Beeton will have to. If Alliston opens, Beeton will have to." The domino effect will take place.

Mr. Chairman: I just want to ask you, Miss Roberts, if you are going to go beyond the four minutes.

Miss Roberts: No. Is my time up?

Mr. Chairman: You are just there now.

Miss Roberts: OK. Thank you very much for your answer, but you made the point very clearly, it is if they want to open in the municipalities. You want us to give them the framework, and then if they wish to open, they should be able to, but we pick the tourist area.

Mrs. King: Yes. You define.

Miss Roberts: We pick the tourist area and the municipalities in that tourist area then open.

Mrs. King: You define "tourist area".

Miss Roberts: Thank you. That is what I would like to know.

Mr. Chairman: Your caucus has now used five minutes.

Mr. Hampton: I think I would like to pursue what Miss Roberts dealt with just a little more. I do not expect you to have all the resources that the Ontario government has on hand—

Mrs. King: No, you have most of them.

Mr. Hampton: —so I do not expect you to be able to bring to this committee the expertise that the government should have brought but was so sadly lacking earlier last week.

Spokespersons for the Association of Municipalities of Ontario and the for its large urban section, large municipalities, said yesterday that they agreed there were problems with the old law. They agreed that it needed to be tightened up. But, if I can paraphrase them, I think they said, "Don't use problems with the old law as an excuse to foist the Sunday shopping problem off on us, and don't use it as an excuse to foist it off on us in such a way that wide-open Sundays will happen incrementally."

Mr. Chairman: If you are anticipating a response, I would ask the question now because you are not going to have time for one.

Mr. Hampton: That was expressed by that group. Is that a fair assessment of what you see happening?

Mrs. King: Yes. If the provincial government and the Solicitor General are saying that this law as it now reads is unenforceable, how, then, do you put an enforceable law over to the municipalities to operate? If the province cannot do it, how are they going to do it? You people are the people who should be writing the legislation for the residents of Ontario, not each and every little municipality.

Mr. Chairman: I have to keep things fair among the caucus, so we are going to have to move on to Mrs. Cunningham for seven minutes.

Mrs. King: If I may, I would like some of the questions addressed to Mr. Mansfield because he is prepared to answer some.

Mr. Chairman: All right. You can take that under advisement, Mrs. Cunningham.

Mrs. Cunningham: It is a pleasure to meet you, Mrs. King and Mr. Mansfield. I am especially happy to see you here today. I am the representative from London North.

Mrs. King: I know that very well.

Mrs. Cunningham: Of the issues, probably the primary issue in the by-election was Sunday shopping.

Mrs. King: I was there.

Mrs. Cunningham: There was some confusion as to the point of view of the senior citizens in that community, and I will tell you why. When people were asked if they wanted to shop on Sundays, most people did not think it was a bad idea. In fact, most of us do now in some way; certainly at stores that have been open since we were all children ourselves. But when the question was asked, "Do you want to work on Sundays?" that was the difference.

I, too, have come across the document you refer to on page 2; in fact, I have read it thoroughly. I can understand, with the backup material the Liberal government members have been given to read, that they would very strongly be supporting their point of view, because if you do give someone a package that only has one side of the argument in it and they do not take the

time to read the other side of it, sometimes you do get somewhat entrenched in your views. That, in fact, is what that document is all about.

Since being elected, I have come to understand that question period is just that in the House: question period, not question-and-answer period. So when the question was, "What is your personal view?" and the answer in that document does not answer it, I was not surprised. You have probably seen it as well. I am aware of the document, have looked at it and understand why you would have a strong point of view. I just wanted to put that in.

My questions, on your direction and because I think it is appropriate, will be to Mr. Mansfield. They have to do with the definition of a tourist area. Has your group ever been asked to participate in any committee or with the government or with anyone on the definition of a tourist area? Have they ever asked your group its opinion?

Mr. Mansfield: Not to my knowledge.

Mrs. Cunningham: Would you be prepared to assist us if that became the deliberations of this committee or another committee or if in fact the government asked you for assistance? Would you be prepared?

Mr. Mansfield: I would say that some member of our executive would be willing to sit on the committee, yes, as an adviser.

Mrs. Cunningham: I think I have the answers to my other two questions. You do support a common pause day?

Mrs. King: Yes.

Mrs. Cunningham: And you are not in favour of the municipal option. My final question is, then: Do you believe that the common pause day is in fact a part of the framework of Bill 113?

Mrs. King: I read Bill 113. I am 71 and my memory is not all that great; I cannot remember every word in it. What you are asking me is if Bill 113 specifically sets out—

Mrs. Cunningham: Or even supports. Does it appear to be more supportive of a common pause day or less, in your opinion, by its nature?

Mrs. King: In my opinion—and Alex, I am sure you will agree with me—it is less supportive of a common pause day by the simple reason of saying, "The government wants you to keep a common pause day, but it's up to you, each municipality." Then the common pause day is going to disappear because of the domino effect of open Sunday shopping. That is our opinion.

1040

Mrs. Cunningham: A clarification: I am not certain as to your response to Miss Roberts around her question on the tourist area. I am not sure what you really did state.

Mrs. King: What I really wanted to state, and perhaps it was ambiguous, was that I think the provincial government should set out exactly what is a tourist business, never mind area—a tourist business. Then, if they feel that tourist business should be allowed to be open on Sundays during the tourist season, perhaps that would be all right. Preferably, to me, of course,

and I suppose it is because of the generation I was raised in, nobody would have to work on Sundays. I am sure that if every politician in this country were asked if he wanted to work on Sunday, he would answer no. I am sure if they were forced to, the loudest screaming would be from them.

Let me explain something. We have been asked continually why we are against open Sunday shopping and people working on Sundays when we do not even have to work the other six days of the week. I have given you my reason, which is family and the quality of family life, and I think that is the preponderance of senior citizens' opinion on the quality of their lives and the lives of their children and grandchildren, which does not answer your question. I think the province should designate what industries are tourist industries and what industries are not—not location, but industry.

Mrs. Cunningham: Thank you very much for coming today and for making that clarification.

Miss Roberts: That clarification is very helpful because it is opposite to what you just said, and I really appreciate your comment, Mrs. Cunningham.

Mrs. King: Industry, not location.

Mr. Chairman: Mr. Pelissero, for your own edification you have three minutes.

Mr. Pelissero: Thank you for your presentation. I want to pick up a little on where you left off in terms of your preference to have everything closed on Sundays. You talked about the tourist by industry as opposed to location. Would that same philosophy extend to drugstores and pharmacies?

Mrs. King: I think we could all buy our pharmacies six days a week.

Mr. Pelissero: So the answer is yes.

Mrs. King: There is an exception if there is an emergency, perhaps our emergency hospital pharmacies could handle it. No, I did not say I specifically wanted it; I said I wish that no one had to work on Sunday. I know it is impossible. I just said I wish it could be. It cannot.

Mr. Pelissero: Then what is the position of the United Senior Citizens of Ontario with respect to what exemptions over and above tourists should be open on Sunday, recognizing that maybe you cannot have your wish?

Mrs. King: Essential services. I do not think literally, because many of the large pharmacies now, in this day and age, are department stores, and in that event, why should they be exempt?

Mr. Pelissero: So you would support anything that would tighten the abuse within the drugstore, grocery store, category.

Mrs. King: Absolutely.

Mr. Pelissero: Such as what is being proposed in Bill 113 where it is limited to 5,000 square feet as opposed to what is happening now with unlimited square footage and possibility of employee abuse, that would be a positive step in your estimation.

Mrs. King: There is a problem with your 5,000 square feet.

Mr. Pelissero: It is a proposal. You may want to say it should be smaller.

Mrs. King: No, it is a problem in that you immediately discriminate against the larger drugstores and you support the very small drugstores whose owners do not want to work on Sundays now. They have six days a week. In a smaller drugstore, owned individually, obviously the owner is the man who has to work. He is the pharmacist. He does not want to work Sundays.

Mr. Pelissero: So that I am clear, you are saying drugstores that are, say, 5,000 square feet and under; right now there is not a square footage rule and we recognize there may be an abuse.

Mrs. King: I know that.

Mr. Pelissero: This is an attempt to put in 5,000 as a proposed square footage. What square footage would you recommend?

Mrs. King: I would not recommend square footage.

Mr. Pelissero: How would you recommend?

Mrs. King: I think I just explained that the minute you take any type of square footage, you are talking about a large pharmacy store. You are not talking about a little neighbourhood store. You are talking about the large stores. You are discriminating, really, against the smaller pharmacist who does not want to open his store on Sundays, because he will be forced to open if you give footage to Shoppers Drug Mart, we will say, or a large pharmacy.

Mr. Pelissero: How do you then determine which drugstore should be open?

Mrs. King: I do not determine which drugstore should be open. I think I said—

Mr. Pelissero: You just said you needed some essential services such as drugstores.

Mrs. King: I think I said that perhaps it could be handled by emergency departments of hospitals that have pharmacies.

Mr. Pelissero: So it does not necessarily have to be a pharmacy that is located away from a hospital in order to serve the need.

Mrs. King: It is entirely up to this government, in my opinion, to designate the exemptions. It is not up to the United Senior Citizens of Ontario. It is not even up to our residents. We elected you to do that job.

Mr. Pelissero: I am looking for the input and the consultation that you offered to Mrs. Cunningham with respect to the tourist exemption, and I maybe wrongly inferred that this would also apply to other sectors that were working to make, to quote you, "an enforceable bill."

Mrs. King: You now control which gas stations can open and what hours. Why can you not do it with pharmacies?

Mr. Pelissero: No, I do not think that is true.

Mrs. King: Somebody does.

Mr. Pelissero: The municipalities do.

Mrs. King: Oh, the municipalities.

Mr. Chairman: On that note, Mr. Pelissero, time has run out. We apologize for that.

Mrs. King: So you have an exemption that you give to the municipalities for certain industries.

Miss Roberts: They control all retail store hours, with the exception of the Retail Business Holidays Act now in existence.

Mr. Pelissero: And the ones that are tourist.

Miss Roberts: That is right. That act is now in existence and we are attempting to amend that act.

Mrs. King: You are attempting to amend that.

Miss Roberts: Our time is up.

Mr. Chairman: I think we are attempting to get beyond the time we have. I am very sorry, Mrs. King. We would love to talk to you further, but we have a very tight schedule. For that reason, I have to act in my capacity, which I am fast approaching, as senior and lay down the law. We are very thankful that you came forward. You represent a marvellous group of people; I have a lot of them in my community. Thank you for taking time out of your schedule. I am sure you had better things to do. We appreciate that.

Mrs. King: I do not think we had better things to do today. I think this was important. Thank you.

Mr. Chairman: The next group is the United Church of Canada, Bonnie Greene, director, and Rev. David Jones. Please come forward and take a seat. The presenter might identify both parties for Hansard. I am sure you were here before, and I think you were here yesterday, so you probably know what the rules are, but I will express them again. You have 30 minutes. You can use all or any part of that for your presentation. It would be appreciated, though, if time were left for questions from members of the committee. So, if you would like to proceed.

UNITED CHURCH OF CANADA

Dr. Greene: My name is Dr. Bonnie Greene. I am the director of church in society for the general council of the United Church of Canada. My colleague is Rev. David Jones, who is the pastor of the congregation just to the east of Toronto and who represents the co-ordinating committee of Ontario conferences of the United Church of Canada; that is, all the judicial bodies of the United Church that reside in Ontario.

The United Church has been debating this issue for at least the last 50 years. It gets a little tedious for us, but the line has not changed a great deal. Our primary concern has been to protect the right of employees to refuse

Sunday work, so that we can ensure adequate leisure time and protect them from isolation from family and community. Therefore, we have supported the common pause day.

Our case against the loss of the common pause day is summarized in appendix 1, because that is not precisely what you are dealing with in these hearings. We appeared before the select committee, we have made representation on the common pause day numerous times in the last 50 years and we will continue to do so, on a municipality-by-municipality basis if we need to. We want to deal specifically with the question of the local option today.

In our review of this, what we have tried to emphasize is the obligation of government to use the force of law to protect the most vulnerable person in the employment relationship. Therefore, our emphasis has been on the rights of the employee versus the employer versus the alleged right of the consumer to shop, which has been mooted as a new right. It is not yet guaranteed in law, fortunately.

In assessing the legislation presented, we have used as our benchmark the obligations that the government has under international and federal law to protect human rights and to enshrine those rights in domestic law. What we have put into appendix 2 is a summary of the rights guaranteed under international law under the United Nations, which Ontario, as part of a federated state, is legally bound to comply with and to draft its laws in such a way that those rights are enshrined for all citizens.

Those rights that are legally binding for this country and this province are in the United Nations' Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

The portions we have outlined for you outline the rights of individuals to equal protection under the law, to effective remedies when their rights are violated, to work and leisure and to freedom of thought, conscience and religion.

1050

In assessing the legislation that you have before you, it was our judgement that those were the rights that you are legally bound to ensure your law implements and that are relevant to your discussion. In assessing the legislation in that kind of framework, we have come to the conclusion that the local option will deny equal justice because it will establish standards that will allow for different measures of justice between employees throughout the province without a pressing social need to deny equal justice to employees. It will not offer effective remedies to employees whose rights are denied by an employer and it will place the burden on the employee to claim and pursue his or her rights against considerable odds.

Furthermore, the legislation does not provide for a reporting mechanism from those municipalities should they choose to go for open Sunday shopping which would allow you to assure yourselves that in fact equal justice did pertain throughout the province and to report to the United Nations that the law that was in operation in Ontario did in fact implement those commitments we have made in international and federal law.

That is one of the reasons why we have argued that the primary way, and probably the only way, to ensure that you do provide equal justice is to

ensure that the laws that pertain to employment standards, labour practices and religious practice are retained in the hands of the province rather than given to the local municipalities.

Our second conclusion on review of the legislation is that the amendment will further restrict the right to freedom of religion. As a church, we have particular concern for a small number of employees who are practising members of communities of faith and who have a legal right to freedom of religion. Under the United Nations definition, and that is included as well in federal legislation, the right to freedom of religion includes the right to keep one's beliefs private in order to prevent discrimination in employment, housing and services and the right to gather with one's community of faith on the designated day of corporate worship.

The problem with the amendment to subsection 39k(2) of the Employment Standards Act is that it would allow an employment standards officer or a referee to find it unreasonable for an employee to refuse Sunday work regularly or to refuse Sunday work if other employees took the turn at Sunday work on a rotation schedule established by the employer.

Our experience as a church—and I think the communities of faith that worship on Friday and Saturday can tell you this—is that that is the problem already for people who are practising members of their community of faith. It is the employer who denies the right to freedom of religion. The government, which has the legal responsibility to ensure that that right is delivered to an employee, has to turn a blind eye. That is the reason we have argued that it is preferable to keep the number of people who are at risk in that kind of situation to an absolute minimum and to fix the problem for those who worship on Friday and Saturday. We do not think that is difficult.

The municipal option would put us in the situation that we have to deal with in many parts of the world where we are dealing with atheistic states. When we try to secure the right to corporate worship for members of religious communities, especially in the eastern bloc, we go to the governments of those states and their argument is: "The law resides in the hands of the local municipality, the local jurisdiction. It is their right to put in place bylaws that will help these people secure their rights. It is not in our hands any more. There is nothing we can do." In actual fact, the restrictions come inadvertently, not through the deliberate effort of the federal state but through the local people having neither the will nor the resources to protect those rights that are legally guaranteed.

The other piece of the legislation that is troubling, and I think that is our primary concern, is that the power given to the municipalities is inadequate to the obligations that they would bear on your behalf in securing those rights. In order for this legislation to protect those rights that are guaranteed, you would need to have in the legislation a requirement that all municipalities would submit their potential or proposed bylaws relevant to Sunday opening for provincial review prior to their implementation.

You would also need them to establish independent bodies with the power to monitor the implementation in order to ensure compliance with provincial, international and federal law, and you would need a reporting mechanism in order to assure yourselves that you were saying with integrity that, indeed, within Ontario international law is available equally across the province. Otherwise, we are kidding ourselves when we report internationally on how Canada is implementing the kinds of commitments it has made.

The final section of our brief deals with the very sad experience of the United Church as an employer. I thought some of you might want to press that question, because we are an organization whose employees, about 5,000 of them, are required, by virtue of their employment, to work on Sunday. "Employed" is not how we really refer to our employees. David is ordained; he is not a simple employee.

The reality is that people who gather on Sunday gather as volunteers, with one person among them who is required to be there by virtue of his ordination. That creates, for a lot of ministers, stress on their family life and isolation from the community, because the time when the community needs their services is the time when the rest of society is organized in such a way that it has leisure time. From Friday to Sunday night is the time when our people have to be employed and out of the rest of society in order to provide for marriages, baptisms and, believe it or not, a lot of funerals, not to mention worship.

We go to extraordinary lengths as an employer. We hire staff across the country in order to help people cope with the stress that creates. We have an inside joke that in heaven there are no Sundays for clergy families. That is the reward that they are promised for putting up with the suffering they have to go through here on earth. If there is no heaven, we are in big trouble. They will not find out about that, though, until it is too late. That is the only comfort we can offer. I happen to be married to clergy, and I know what this is like. It is a very, very serious problem.

We have a serious problem with marriage breakdown, much of which is related to the problem that people simply cannot co-ordinate their schedules. Most of our clergy are on very low income; in some cases, they are just above the poverty level. Their spouses are frequently in the Monday to Friday workforce. For people to be able to maintain solid marriages and families, when it is difficult to be in the same room with one another, is not an easy thing, and that is despite Christian commitment and despite the commitment to one another that they start out with.

That is our experience as an employer, and it is one of the reasons that we have argued for keeping the number of people at risk to the absolute minimum required for public health and safety. I think that is all we need to say.

Mr. Chairman: Thank you very much. We have about 18 minutes for questions, six each for Mr. Hampton, Mrs. Cunningham and Mr. Chiarelli.

Mr. Hampton: Let me say, first of all, thank you for taking the time to appear here today. Thank you also for taking the time to think out what is a very novel brief and to shed some different light, and I think it is a very different light, on an important question.

Someone said to me that after you have attended four or five days of hearings on this issue, you will have heard it all. I think you have just proved there are a lot of ways to come at this issue and a lot of ways worthy of consideration.

In her statement to us last week, the Solicitor General (Mrs. Smith) did not at any time in her statement mention a common pause day. There was a lot of talk about tourism and there was a lot of talk about difficulties of definition. When I look at your statement, you talk a lot here about human values. You talk a lot about trying to preserve a kind of social framework

that will be productive or will assist in terms of human values and family values.

In your opinion, is Bill 113 going to provide the kind of framework that will promote those values, or do you think it provides the kind of framework which either will not promote those values or may very much detract from them?

Dr. Greene: I think I said that we did not think it would work. On page 9 of the brief that we presented to you, the reason we did not think Bill 113 would work is that while the obligation to promote those values exists both in law and, I would say, in public social consensus, the powers are not given to the municipality, nor are there obligations placed on the municipality in order to enforce those values.

1100

What we are arguing is that in the wake of the Second World War, when we saw what states could either allow to be done or do to their citizens, we can no longer tolerate indifference around the use of law and assume that good human values will exist and emerge only from the goodwill of individuals. We use the force of law to provide a kind of a community which is a society amenable to the weakest, not a society in which the law of the jungle is the rule of the day. That is what we have been setting out on as a thoroughly modern course since the Second World War.

That is why I think we are not talking about protecting a particular day but about protecting a common pause for the wellbeing of society.

Mr. Hampton: You say "the law of the jungle." We have heard from several business groups which have said to us, "Look, there is a law of the jungle out there." There is a phenomenon known as economic competition that can be very powerful. It can be so powerful as to have a system where an employer may say to employees, "Because I feel obligated to work on Sundays, if you won't work, I'll find a way to get rid of you."

The problem I find with this legislation is that it leaves us very much open to that kind of economic pressure. Is that what you were referring to as "the law of the jungle?"

Mr. Jones: I think that is what she was referring to. When Sunday shopping came in to Alberta, I was in a church out there. What specifically happened in the small community of about 5,000 people where I lived is that there were a number of stores which were part of provincial chains. The local managers and staff did not want to work, but the provincial head office said: "We're going to open on Sundays."

Oou had this crazy situation within the town in which both stores—the one that belonged to the chain and the one across the street which had to open as well to preserve its share of the market—both managers, both sets of staff did not want to work. Yet they were both there because someone, in the law of the jungle, from the provincial head office, said: "We're going to be open."

I very definitely believe that in practice there is that kind of economic pressure. I have seen it in people in my own congregations. I think it does have a domino effect. Mr. Kanter, in one of his addresses to the House, referred to his own family's experience of seeing a drugstore in Toronto, I believe it was, where there were schoolbooks and a sign in the window that said: "If the fellow down the street can open, why can't we?"

I think that was the point Mrs. King was making, that pressure is going to be there on every municipality. The pressure does not disappear. It is just being passed on to every council to cope with. The justification for opening up today under provincial legislation will simply be an issue that every council has to deal with.

Mr. Kanter: I am flattered that you read my comments so closely, even though we may not agree entirely on the interpretation.

Mrs. Cunningham: Dr. Greene and Reverend Jones, thank you for coming again and shedding, as my colleague has already stated, a more in-depth and newer point of view on this whole issue and the problems associated with extended Sunday work.

On page 11 of your brief, you make a statement referring to the stress reported by many ministers: "This pattern of work and the isolation it creates for the individual...." That is a source of stress reported, I would say, by many members of the caring professions. We have talked to them, and they do have a different lifestyle.

In talking to a lady yesterday evening who works in a nursing home, who had been watching the proceedings on television and called me to give me her point of view, she pointed out that she wonders how her family has survived, given her caring profession. She wonders why we would want to extend this kind of stress on to people who really do not have to work on Sundays because of their need in society. I am now talking about ministers, doctors and nurses. I guess we will be extending it to child care workers if we do this.

I wondered if you would talk just a little bit about the local option again and why you are so convinced that this indeed would extend this kind of work.

Dr. Greene: Our position has always been to keep the number of people who have dropped out of the community to an absolute minimum, because we need them for public health and safety purposes. So the United Church has not supported opening up tourism, which I do not think will surprise anybody. We have not been in favour of professional sports and all that sort of thing.

We have talked about the concern for community wellbeing and what happens to the fabric of the community because of volunteerism in the community that takes place. That is easier to facilitate when people are able to be together.

We cannot demonstrate to you that in the future, if a municipality chooses to go to open Sunday shopping, community life will fall apart, because it has not happened yet. But we have some considerable concern. We have the experience of our own employees who find themselves apart from the community, except in a professional role, and who find that very stressful. We have a fair number of people who change professions.

What we are trying to do is keep the number of people required for community wellbeing to be at work to an absolute minimum and not allow that group to increase without an absolutely pressing social need. We do not think there is one for shopping.

What we would do is create a class of people who are behind the counters selling to us because they have economic need, selling to the rest of us who have enough economic wherewithal to have the leisure time to be out shopping. That does not seem to us to be a pressing social need.

Mrs. Cunningham: The other point the same individual made—and I think you are a group that could respond because you would be somewhat objective on the point I am about to make—this lady also said to me that she did not understand why a government that appears to be so pro-Canadian, so supportive of our cultural heritage, so supportive of our quality of life, could be so anti-free trade and absolutely pro-Sunday shopping.

The way this woman described it, if you look at the difference between our cities in Canada and in Ontario and cities in America, you would say that the first thing is their wide-open Sunday shopping. Mr. Danson certainly attempted to prove that to us the other day. The second thing they are worried about is crime in the streets. Would you like to pass a comment on that observation?

Dr. Greene: I do not know what I can say. I cannot speak for the government on why it would make those choices. It is just that I am opposed—

Mr. Chairman: We will send it to the free trade committee too, after this.

Mr. Jones: Just a very brief point on the reference to the United States: There was an article in the Toronto Star that got some comments about a week or so ago on Boston's experience. It was a very long article which you had to kind of work your way through, about a full page, before the reporter started to include what the clerks thought of it. The shoppers loved it but the clerks did not like it. So the experience in the United States is not always as positive as we may be led to believe.

Mrs. Cunningham: It is not unlike the package I referred to which the Liberal government has given to the members. They talk about the experience of shoppers but not so much about the experience of workers. It is the same thing.

I have a couple of quick questions. I have you down for supporting a common pause day—

Mr. Philip: Do you have a copy of that?

Mrs. Cunningham: I do, actually, but I am not giving it to you. You get your own.

Mr. Chairman: I think we had better proceed with the quick questions and let Mr. Philip acquire his own.

Mrs. Cunningham: You are not in favour of the municipal option. Would you assist us in the definition of "tourist area" if that became one of the deliberations of this government or committee?

Dr. Greene: Yes. In fact, we have participated in previous reviews, most recently in the review carried out by the Tory party and as well by the special select committee. We were not asked before this legislation was put into place but we are willing to offer our services.

Mrs. Cunningham: Do you feel that the common pause day is in fact part of the framework of this legislation?

Dr. Greene: No. I think I mentioned that.

1110

Mr. Chiarelli: Thank you very much for coming. I want to say that I appreciate your church having participated over a 50-year period, remaining steadfast in its principles, in view of the encroachments that have taken place over the years.

I want to ask you a general question before we look at the present legislation. You indicated that one of your predominant concerns, if not the predominant concern, is the use of the force of law to protect the employee.

Dr. Greene: The most vulnerable person within the employment relationship.

Mr. Chiarelli: What I would like to ask you is, preceding this legislation, over time, would you say that the force of law has been doing a good job or a bad job in protecting the employees you are referring to?

Dr. Greene: There has been improvement in the gathering of law and the development of law. In fact, we have been working at that regularly through the United Nations and the International Labour Organization since the 1940s, so there has been forward progress.

Mr. Chiarelli: In Ontario?

Dr. Greene: Yes, of course, in Ontario. I think there have been encroachments, and we have resisted them, around the protection of the right of the employee to leisure, as well as around freedom of religion. We have gone backwards in some respects.

Mr. Chiarelli: In terms of going backwards or the encroachments, I am interested in your ideas and thoughts on that. As you are aware, under the present law we have the tourism exemption, which has been used to a limited extent by over 100 municipalities. Under the existing provincial framework, we see pharmacies, bookstores, video stores and various other exemptions operating. In addition, yesterday we had Archbishop Garnsworthy from Toronto indicating that he would not want to go backwards, that he was satisfied with something approaching the status quo, without being specific.

Would you want to retain the status quo or would you want to see some retrenchment? If you want to see some retrenchment, could you be instructive to this committee to indicate how you would want to retrench the present Sunday openings.

Dr. Greene: I think we did. In fact, we would want some retrenchment. We do not see it as backward steps. We want to see retail workers protected. There are already places in which retail workers are not protected, partly because municipalities do not have the capacity to enforce the law that exists. We have children in our own congregation who are 16 and who work for bakeries. They cannot attend church, even though they promise they will, because they are only allowed one Sunday off a year. I happen to live in a municipality that does not have the capacity to enforce the regulations that exist at the moment.

Therefore, yes, retrenchment might be beneficial if we were to close down those loopholes that exist for unnecessary services, and we did suggest that. Our suggestion was that there needs to be a closing down of those services that are not necessary for public health and safety. That may not

necessarily be popular, but we are talking about the protection of the rights of workers, about keeping the number of workers at risk at an absolute minimum.

Mr. Chiarelli: I assume you are familiar with the present Bill 113 in terms of providing a provincial framework so that a municipality could choose to do nothing and the provincial framework would apply. In fact, that provincial framework in some respects is tighter and tougher than what we have at the present time, including the enforcement provisions. With respect to the provincial framework that is in this legislation, do you have anything good to say about it?

Dr. Greene: No, because I do not think it is strong enough. I think all that it does is open the floodgates to the violation of the rights of another group of workers who are not required to be at work for reasons of public health and safety.

Mr. Chiarelli: I am not talking about the local option; I am talking about the provincial framework. Let us assume we had the provincial framework and dropped the local option. Looking strictly at the provincial framework, do you have any positive comments about that?

Dr. Greene: No, I think not. I think our problem is that you do not place obligations sufficiently on municipalities to have essentially a municipal human rights commission that would have to be in place in order to ensure the provincial framework is good enough. That is what you are asking yourself to do. I think you do not want to do that.

Mr. Chiarelli: Perhaps I am not making myself clear. I am assuming the province would continue to use the enforcement mechanisms that would be in the legislation; that is, much stricter fines, the right to apply for injunctions to prevent stores from opening and using fines as a licence. These provisions have been newly incorporated into the legislation. Is that a forward step from your point of view?

Dr. Greene: No, because it does not oblige the municipalities to have those kinds of bodies that would monitor the implementation. I do not know how you are going to know that implementation is in fact taking place except by taking their word for it.

Mr. Chiarelli: You would want, in addition to the stronger penalties, stronger policing as well?

Dr. Greene: Precisely. That is what page 9 is about. It talks about having independent bodies to monitor the implementation. Without that, I do not think you have any protection at all. That is what effective remedies mean. They have to be independent and they have to be there and accessible to all people who need to claim their rights.

Mr. Chiarelli: Just one very specific question with respect to the provincial framework: at the present time, it restricts pharmacies which open on Sunday to no more than 5,000 square feet. Have you any comment on that?

Dr. Greene: Do you mean on the size?

Mr. Chiarelli: On the size, yes.

Dr. Greene: I do not think that is the issue. I think the issue is for this body or whatever body is delegated the job to come up with a way to

provide for every community to have access to those pharmaceuticals that are required for safety and health purposes. It is not a question of creating a loophole. I think you take the responsibility.

Mr. Chiarelli: What you are saying is there should be an emergency service for essential services.

Dr. Greene: That is right.

Mr. Chiarelli: Should that be created by the local municipality or by the province?

Dr. Greene: I think you have to retain the power, but with consultation with the local municipality.

Mr. Chiarelli: All right.

Mr. Chairman: Thank you very much. We appreciate your coming forward. We are sorry we could not give you longer than 30 minutes, but we are—

Mr. Jones: Could I leave the committee with just one comparison thought I have not heard very often, if ever. It is the similarity to the issue of the spring break for schools. Obviously, some have thought of it.

Recently, I was told by a member of my congregation that the Toronto school board has planned for next year to have the spring break tied to Easter. The board he is in, which is Durham, plans to stick with the fixed time. Consequently, he says that 30 out of their 100 staff are going to have a situation, because they live in Toronto where their sons and daughters will have a spring break at a different time than they will.

He used a very interesting word for that. He said, "We are back to chaos." That is just with the size of school board districts. Imagine if that is multiplied by a local option where it is even the very small municipalities. With that kind of difference, if every local school had a different spring break, think what that would mean to families.

Mr. Chairman: Thank you for that thought.

Mrs. Cunningham: Soon go year-round.

Mr. Chairman: We wish we could give you—

Mrs. Cunningham: Families take different summer holidays and they are having plebiscites on that.

Mr. Chairman: I am sorry, Mrs. Cunningham. We wish we could give you more time, but the number of people who wish to come before us requires us to allocate 30 minutes.

The next group is Citizens for Public Justice with Gerald Vandezande; Wayne Carrick, provincial executive committee; Steven Smart, provincial executive committee. Whoever is going to present the brief will perhaps identify for the purposes of Hansard the other parties sitting with you.

I wonder if we could have a bit of order, please. All right. You have, as you have probably heard, half an hour. You can use any or all of that time,

but we would appreciate it if you would leave some time for members to ask questions.

CITIZENS FOR PUBLIC JUSTICE

Mr. Carrick: Mr. Chairman, my name is Wayne Carrick. On my immediate left is Steven Smart and on my far left is Gerald Vandezande.

Before we begin, there is a minor correction to our written submission on page 6, the lower right-hand corner. There is a figure of \$1,500. That is not correct. It should be \$5,000.

We regret that a fourth member of our delegation is not with us, our case study, the owner of a store in Toronto. Half an hour ago I was given a brief letter. It is addressed to "members of the select committee on Sunday shopping." I am sorry for the incorrect title. "I, Jim Renieris, wanted to be present at the public hearing on Sunday shopping. Unfortunately, as the owner of the store, it is difficult to leave on a working day. As indicated in the brief by CPJ, please take seriously the needs and concerns of workers such as myself and my employees working in retail."

Citizens for Public Justice has 2,000 members and supporters across Ontario. Mr. Smart and myself are members who are on the provincial executive committee and Mr. Vandezande is on staff as public affairs director.

1120

CPJ is an organization that has addressed a wide range of public policy issues and has done that out of a Christian value framework. Having said that, I want to say that with regard to Sunday opening, we are not at all interested in some special, unique privilege for the Christian community; we are interested in something else.

The value framework that we share among all our members has given us a concern for issues like quality of life, workers' rights, the rights of religious minorities, and as our name implies, justice in the public realm in Ontario. On Sunday shopping, we communicated our position to the government in July 1986. We appeared before the select committee on retail store hours on February 18, 1987. What we said then is on record in Hansard.

We were quite pleased with the report of the select committee. We are in agreement with that committee's guiding principle of a common pause day and urge the government to adopt that principle. We are also in agreement with the committee's recommendation that "primary responsibility for the administration of the Retail Business Holidays Act...should remain that of the provincial government."

The committee remarked upon the strain imposed upon the families of retail workers, the adverse impact upon common time together for primarily female-led, single-parent families, and the lack of availability of child care facilities and public transit. These and other similar concerns are shared by many people I know you are hearing from.

We would like to ask whether the provincial government is prepared to spend the extra money to improve public transit systems to meet the needs of Sunday commuters and whether the provincial government is prepared to spend money on community and recreational programs for children and supply day care for children of parents who will have to work on Sundays if this goes through.

In our written submission we present a case study, and we would like to highlight a bit of that. Our case study is the situation of a Toronto retailer and his employees, all of whom are deeply troubled by the government's proposed legislation.

Royal Home Hardware Building Supplies is a large hardware store in Cabbagetown, Toronto, with four major departments of houseware and hardware. Jim Renieris, the owner, employs eight people, six full-time and two part-time.

Both Mr. Renieris and his employees are afraid that the enactment of Bill 113 would necessitate Sunday opening hours for the store and would force work on all of them on the one free day they now enjoy with family and friends. Mr. Renieris is sure that, given the option, Toronto would adopt wide-open Sunday shopping hours under pressure from larger retailers.

If wide-open Sunday shopping penetrates Toronto, says Mr. Renieris, he would be forced to go along if he is not to lose customers to other retailers, such as Canadian Tire, Eaton's and Simpsons on nearby Yonge Street. Mr. Renieris does not want to force Sunday work on his employees with whom he now enjoys a good rapport, nor does he want to change his current Sunday family life pattern.

He says: "My main concern is disruption of family life. If I work on Sunday, I won't be able to spend time with my family...I will lose the only day in the week I have to spend with my children and my wife."

Jim's employees share his worries. One of them, living alone and with four children and seven grandchildren, is upset that she may end up working on Sundays, which she invariably spends with one or more of her family. Her children work during the week and the only time she can see them is on weekends. If she has to work on Sunday, she will not be able to see her grandchildren. The other employees also value their Sunday time.

The employees do not believe that the provisions in Bill 114 would protect them if they refused to work on Sundays. Mr. Renieris, the owner, says: "If I opened on Sunday, I would have to make my employees work. If they don't want to work, I may have to fire them and find someone else." He has no desire to make his employees work Sundays, but would feel forced to in order to remain competitive. He believes this could only be seen as reasonable if a dispute with an employee were brought to a formal hearing.

We in CPJ have some concerns about the bills and Mr. Smart will address that.

Mr. Smart: I would like to consider the proposed legislation in some detail. First of all, in introducing Bill 114, An Act to amend the Employment Standards Act, the government has implicitly acknowledged that the proposed amendments to the Retail Business Holidays Act will lead to situations where retail workers are forced, by economic pressure, to work on Sundays against their will.

In introducing the bill, the Minister of Labour (Mr. Sorbara) was quoted in the Globe and Mail as saying that it will "bring about a situation where, by and large, the workforce in the retail sector on Sundays is a voluntary one."

How true will this be if Bill 114 becomes law? Section 39h states that "an employee may refuse any assignment of Sunday work that the employee

considers unreasonable." That sounds like real protection. However, if the employer does not care for the employee's decision to refuse work on Sunday, he may require that the government appoint an employment standards officer to examine the case. No reason or justification need be given. It may take weeks or months for an employment standards officer to be appointed in any given case.

What happens in the meantime? If the employer is unsympathetic, the employee must either yield to the demand that he work Sundays or else risk losing his job and hope that he eventually wins the right to be reinstated or other compensation. There is no provision in Bill 114 for action to be taken to restrain an employer's conduct prior to the final determination of the matter.

The employment standards officer's role is only to investigate and to try to help the employer and employee reach an agreement. The officer has no power to resolve the matter or to require that the employer respect the employee's decision. This bill has been drafted under the assumption that the employee and the employer are likely to work together co-operatively and arrive at a settlement themselves, with the assistance of the officer. If no such mutually agreed upon settlement can be arrived at, the officer's hands are tied. This contrasts sharply with other sections of the Employment Standards Act where the officer is given extensive powers.

For example, under the equal pay for equal work provisions, in subsection 33(4), the officer has the power to determine the amount of wages owed to a worker who has been discriminated against on the basis of sex. The officer may then issue an order requiring the employer to pay that amount.

Similar powers are given to the officer by section 39 with respect to the employee's right to maternity leave and by section 39c with respect to the employee's right to refuse lie detector tests. Why is the employee's right to refuse unreasonable Sunday work not to be accorded the same treatment?

Because the employment standards officer is powerless to impose a settlement on the parties, a dispute between an employee and an unreasonable employer can only be resolved by a hearing before a referee. This is a quasi-judicial proceeding normally used only for appeals from orders of the employment standards officers. Even this time-consuming and expensive hearing does not fulfil the promise that an employee may refuse Sunday work that he or she considers unreasonable.

On the contrary, according to subsection 39k(2) of the proposed legislation, it is the referee who shall determine whether the disputed Sunday work assignment is or was unreasonable.

How will the referee make this determination? The bill lists seven factors that the referee may take into account. These include such items as whether or not the employer rotates his staff in assigning Sunday work and whether or not the employer has tried to hire additional staff for Sunday work. It seems that the employer's difficulties with Sunday work are to be taken very seriously.

The same is not true of the employee's problems, however, none of which is specifically mentioned. These would include such items as whether an employee will be able to have a day to spend with his or her spouse or family, whether day care is available on Sunday and whether public transit is

available. Surely an employer's request that a single mother work Sundays is not reasonable if there is no child care available for her on that day.

The referee also has the discretion to refuse to penalize an employer who has dismissed, intimidated or coerced an employee for refusing to work Sundays if the referee is of the opinion that the employee's refusal of Sunday work was made in bad faith.

Does this mean that an employee's intentions in exercising his purported right to refuse unreasonable Sunday work will also be the subject of this quasi-judicial hearing? If so, then retail workers must face the intimidating prospect of a public inquiry into their character and motivation if they should dare to go against their employer's wishes regarding Sunday work.

1130

Were it not for the government's stated intentions, one might think that this legislation was designed to prevent employees from refusing to work Sundays rather than to enable them to do so.

Citizens for Public Justice urges that this unfortunate bill be withdrawn. Effective protection for retail workers can best be provided by maintaining and enforcing a common pause day with protection for religious minorities.

I would like to briefly consider two sections of the proposed amendments to the Retail Business Holidays Act: Section 4 of Bill 113 which delegates authority to control Sunday store opening to municipal councils and section 5 which permits Sunday opening by reason of the religion of the owner of a retail business.

Under the proposed section 4, municipal councils may make bylaws permitting Sunday openings that apply selectively to any class of retail establishment or any location within a municipality. Retail businesses may be classified in these bylaws according to size, number employed, character of business or any other criteria. This means that municipal councils will have complete discretion to allow, for example, one store to open on Sunday and require another one beside it to stay closed. There are no restrictions or guidelines.

Under such legislation, a large retail business or new shopping mall which has the ability to choose among several neighbouring municipalities for its location would be able to exert strong pressure on those municipalities to agree in advance to pass a bylaw allowing that store or mall, and that store or mall only, to remain open on Sundays. The municipality which was willing to pass such a bylaw would get the business and the jobs; the others would lose out.

There is no obligation upon the municipalities under this legislation to hold public hearings or engage in any process of consultation whatsoever in making its decision.

If only a few stores within a municipality are open on Sundays, those stores have an advantage over other stores. Eventually, many municipalities will be forced to allow wide-open Sunday shopping to prevent this unfair advantage. Likewise, neighbouring municipalities within metropolitan areas will have little choice but to allow wide-open Sunday shopping once their neighbours have done so.

Citizens for Public Justice believes that the protection of the interests of vulnerable retail workers is too important a responsibility to be delegated to municipalities. Municipal councils do not have the ability to effectively resist pressure from large retail owners and shopping mall developers. They are not able to create a common pause day within their own borders unless surrounding municipalities do likewise.

The government has claimed that it is implementing the municipal option in order to make allowance for the diversity of needs and of community attitudes around the province regarding a common pause day. Yet the effects of this delegation to the municipalities will be to gradually restrict the ability of local communities to have a common pause day, regardless of the prevailing attitude and needs within those communities. We believe that the needs and viewpoints of vulnerable minorities can only be safeguarded by a level of government able to effectively match the power of the forces that threaten them.

This applies both to retail workers who need a common day of rest and to religious minorities that observe days other than Sunday.

Section 5 of the proposed legislation is an attempt to create such protection for religious minorities yet it does so in a way which imposes an onerous burden upon those minorities and which may very well be unconstitutional. By making the religion of the owner of a retail business a criterion for the exemption from Sunday closing, the government is in effect requiring members of religions which observe days other than Sunday to make a public declaration of their religion. If a dispute were to arise over whether or not a particular retailer qualifies for the exemption under section 5, that retailer would be required to disclose his religion and perhaps present evidence of his religious affiliation in a court of law. No such burden would fall upon members of religions which observe Sunday.

Subsection 15(1) of the Charter of Rights and Freedoms says that every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination based on, among other things, religion.

Also section 2 of the charter guarantees freedom of conscience and religion. A strong case could be made that the proposed section 5 of the Retail Business Holidays Act contravenes both of these sections.

In the recent case of *Edwards Books and Art*, the Supreme Court of Canada upheld the constitutionality of the existing Retail Business Holidays Act. Chief Justice Brian Dickson, on behalf of the majority of the seven judges, found that the act does in fact violate section 2 of the Charter of Rights guaranteeing freedom of religion. Nevertheless, the act was upheld due to section 1 of the charter because it was a limitation on those rights that was demonstrably justified in a free and democratic society. The limitation on freedom of religion was justified because of, among other things, the importance of the legislative objective of a common pause day and the fact that the restriction on religious freedom was the minimum restriction necessary to achieve that objective. It is not clear that the proposed section 5 represents the minimum interference for freedom of religion necessary to implement the common pause day.

In the *Edwards Books and Art* judgement, the Chief Justice made the following observation regarding the act in its present form:

"The striking advantage of the Ontario act is that it makes available an exemption to the small and mid-sized retailer without the indignity of having to submit to such a religious inquiry. In my view," he said, "state-sponsored inquiries into any person's religion should be avoided wherever reasonably possible since they expose an individual's most personal and private beliefs to public airing or testing in a judicial or quasi-judicial setting. The inquiry is all the worse when it is demanded only of members of a nonmajoritarian faith who may have good reason for reluctance about so exposing and articulating their nonconformity."

Such legislation does not offer an acceptable form of protection to religious minorities. We believe that the only effective way to protect the interests of retail workers, small business owners, religious minorities and others, is to involve them directly in the process of making the decisions that affect them.

Instead of acting arbitrarily as it is now doing, the government should withdraw Bill 113 and appoint a nonpartisan citizens' task force to establish a province-wide policy framework for the implementation of a common pause day. Such a task force would include representatives of all groups in Ontario society that are affected. Only in this way can a common pause day be implemented in a way which takes account of the diversity of needs and viewpoints across the province in a fair, equitable and balanced way. This citizens' task force would be similar in its purpose and function to the Thomson commission on social assistance or the Shapiro commission on education.

Instead of abdicating its responsibility to the municipalities, the government should resolve to protect the interests of vulnerable retail workers and small store owners implementing a common pause day with appropriate protection for religious minorities. The government should appoint a nonpartisan citizens' task force to ensure that all groups have a say in the decisions that affect them.

We hope that you, as members of the standing committee, will produce a visionary report that uses wisdom in establishing social justice and fairness for all of Ontario's people.

Mr. Chairman: There are about 10 minutes left. Three and one third per caucus. I do not have a third on my watch, but it will work out.

Mr. Philip: It is an excellent brief and I wish that I had 33 minutes to question you.

You have dealt very comprehensively with section 5, which is the exemption section. Let me ask you this question then. Am I correct in my understanding that if a group of retailers wanted to force a municipality—we have talked about one municipality forcing another municipality through the domino theory, but is it not true that they could use simply section 5 as a way of opening up one or two large stores in the municipality and, therefore, forcing the other stores, whether they wanted to or not, into a situation of having to lobby the municipality to allow them to open up because even though they were not registered as being Jewish, Seventh Day Adventists or Muslims, that they in fact were losing competition to these very large stores that may simply have one partner who declared himself to be of a faith that did not worship on Sunday? Is that your understanding of section 5?

Mr. Smart: Yes, I believe so. That is my understanding of it.

1140

Mr. Vandezande: Certainly the way section 5 now reads, there are no restrictions of any kind on who may join the proprietorship or partnership of the corporation. It does not state in any way, shape or form, what kind of investment anyone would need to make in order to be a bona fide co-proprietor, partner or shareholder in the corporation. It is wide open to abuse as it now reads.

Furthermore, other Ontario statutes, particularly the Ontario Labour Relations Act, make reference to possibilities for exemptions because of religion and have resulted in numerous public hearings. I have participated in about 150 cases having to go to the Supreme Court about what constitutes religion and the board still is not clear on it, nor is the court.

As Mr. Smart has already indicated, this section is clearly subject to a constitutional challenge and it is doubtful whether under the charter one has the right to require an owner or a shareholder to reveal his or her religious beliefs in order to be entitled to exemption under the act. Section 5 probably would be wiped out immediately and it can be abused even if it were not wiped out.

Mr. Philip: Section 5 could either be declared unconstitutional, in your opinion or, failing that, could easily be used by anyone who wanted to be—we used to call them blockbusters in terms of municipalities, people who wanted to violate the municipal planning acts and things like that—municipal busters, if you want, simply set up a couple of large stores, have someone who is a minor partner, maybe with no investment whatsoever, simply listed as a partner, declare the religion of the store or of the partner to be one that does not worship on Sunday, get that large store open automatically without any kind of hearing, without any kind of appeal mechanism, and having done so, force the other stores to lobby the municipality.

Mr. Chairman: I think on that rhetorical question we will proceed to—

Mr. Philip: I think the heads were nodding yes.

Mr. Chairman: On the rhetorical question we will move to Mrs. Cunningham.

Mr. Jackson: There should be a response for Hansard, Mr. Chairman.

Mr. Hampton: I think it is an important part of this bill.

Mr. Vandezande: All one needs to do is look at clauses 5(2)(a), (b) and (c). It does not say anywhere that there are restrictions as to who may join the ownership, the proprietorship, the partnership of the corporation. In fact, you could establish five corporations having different religious holidays or having an ownership in the enterprise they are operating and you could circumvent the law.

I am not here suggesting circumvention, but it just shows that this thing has not been thought through very carefully, and if it has, it is not very evident.

Mr. Chairelli: I have a question for Mr. Smart. I was particularly interested in your comment about lack of process. Personally I have some

concern about the lack of process, as well. I am hopeful that over the course of the next six or seven weeks, perhaps something can be done in that area to improve the legislation. In particular, in terms of the lack of process, I am going to ask you a series of very brief questions.

Do you think it would be an improvement to require municipalities, for example, to have six months' notice of motion and public advertising before such a bylaw can be debated at a council? I am not saying that comprehensively would be the process, but as part of a process, would that be an improvement?

Mr. Smart: Yes, I believe it would be an improvement.

Mr. Chiarelli: Would it be an improvement if, for example, the taxpayers and groups in the community had the right to appeal to the Ontario Municipal Board?

Mr. Smart: Yes.

Mr. Chiarelli: Mr. Philip alluded to the fact that there is no appeal process. In your opinion, that would be an improvement.

Mr. Smart: Oh, yes.

Mr. Chiarelli: I want to take it one step further. Let's assume that a bylaw from a municipality effectively created wide-open Sunday shopping in a way the municipal board could interpret to be affecting the quality of life or the character of the community. At the present time, as you are aware, the Ontario Municipal Board deals with quality of life and so forth in zoning bylaws and deals with regional shopping centre issues in a very major way. Do you think that if, in the opinion of the Ontario Municipal Board, a bylaw passed by a municipality significantly affected the character or quality of life of a municipality, it would be required to order a referendum in that community? Do you think that would be an improvement?

Mr. Smart: I do not know whether or not the Ontario Municipal Board has the ability to deal effectively with all of the work that might generate. That is one question that comes to mind.

Mr. Chiarelli: But you indicated initially that you would approve of an appeal to the Ontario Municipal Board. I am just trying to look at the framework of decision-making that the Ontario Municipal Board could make in that context.

My sense is that one of the main concerns of a lot of the people who have come before us is that, depending on what a local municipality does, in terms of the local option, it could very significantly affect the quality of life and the character of the community. My understanding of the OMB is that to a lesser extent it does that now in terms of zoning considerations.

Mr. Vandezande: One of the things that the select committee which previously dealt with this issue recommended to the government and which the government did not follow-up on, for some strange reason, is the very specific recommendation that the government develop a policy framework and policy standards.

It is fine and dandy to talk about an improved process but if there are no criteria on the basis of which, within that process, responsible decisions will be made, then you are left to the arbitrary subjective patronage appointment views of the members of the Ontario Municipal Board.

Mr. Chiarelli: Would you be suggesting, sir—

Mr. Vandezande: Just a moment. What I am suggesting is that before this legislation is proceeded with, that the government go back to the specific recommendations made by the select committee on retail store hours and develop the general framework and the policy standards on the basis of which these major decision would be made either by the government itself or by the Ontario Municipal Board.

If there is no framework in place, no policy standards, then all you are left with is the subjective interpretations of members of the municipal board who we know are open to persuasion of all kinds depending on who appears before them.

So our concern is that the government has not done its own homework. It could have done so. It was given substantial guidance by the select committee. It is puzzling, to put it mildly, why the government did not follow up on those suggestions. If you are interested in improving the process, then you must begin by making sure that citizens and decision-makers all know which basic criteria ought to be upheld in making decisions within that process.

Mr. Chiarelli: I would have to take exception with one comment that the government is not doing its homework because, sir, I respect your opinion and—

Mr. Vandezande: There is no policy framework in this bill.

Mr. Chiarelli: I respect your opinion and what you are advising me now. I consider that part of my homework and part of the government's homework.

Mr. Chairman: We are going to have move on. I understand that Mrs. Cunningham would like to have her time.

Mrs. Cunningham: I am so happy that you answered the question so clearly even though members of the government did not really hear you or do not want to hear you.

The press asked me today whether I like this reference to the Ontario Municipal Board and whether that would solve the problems meaning, "If you do not like what your municipality did, send it over there."

I think there are just lawyers that have drafted all this legislation and that they do not have enough work to do and that the citizens of Ontario will be paying legal people forever around these bills. I am obviously quite perturbed. I liked your answer. I will underline it and I will quote you. I think they are looking for an escape with this little piece of paper that says, "Is this not a wonderful process?"

I agree with you. I will give you an opportunity now to expand on your answer because if we do not have a framework—your introduction on page 1, number 5, clearly tells us, I think, what you think should happen. If you cannot do it, then get the citizens and the experts that have come here as witnesses to help you do it. We did not ask. Go ahead, say what you like. I am just so angry about this simplistic point of view.

Mr. Vandezande: Mr. Chairman, if I may—

Mr. Chairman: You go right ahead and Mrs. Cunningham—

Mrs. Cunningham: You can have the whole time and I will ask my questions after.

Mr. Vandezande: To give you a concrete illustration, the Ontario Labour Relations Board was asked to interpret the act but it is given in the act, in very clear-cut guidelines, as to what framework it must make interpretations within.

This act does not. It does not say what the value framework is. It does not say what the basic justice principles are that should be upheld. It does not say which people should be particularly protected. It does not define what is reasonable or unreasonable. It does nothing of the kind. When you go to an Ontario statute which is a part of Ontario social policy, it specifically defines a variety of things that both the employer and employee representatives on that tribunal must keep in mind when making decisions that are of province-wide significance.

1150

That is the basic failure of this act. There is no operative value framework. The government has opted out of defining that. It is understandable. It comes out of an individualistic liberal tradition which does not know really what community standards ought to be all about.

It is better to acknowledge that and then to say to citizens' groups, trade unions, the business sector and religious minorities, "Will you help us, since we are unable to do it ourselves, develop the kind of policy, standards and value framework that will allow for the development of a quality way of life in the community and throughout the province that is acceptable to all, including religious minorities?" But no such thing has been attempted in this act, and that is the discouraging thing: that after all the hearings, the government has not done that.

My suggestion is that this legislation not be proceeded with until the government has done that. If it cannot, I am sure there are people within the different sectors we have mentioned who will be glad to participate, as the Social Assistance Review Committee has done and as the Shapiro commission on education has done. As numerous nongovernment people have demonstrated their ability to do work for the government, they can do it once more and it would not be as costly.

Mrs. Cunningham: Thank you.

Mr. Chairman: I regret that we have to move on to the next group. We would like to hear each group for more than 30 minutes but, unfortunately, the time is not there.

Mr. Vandezande: Oh, we would be prepared to come back, Mr. Chairman.

Mr. Chairman: In any event, I want to thank you for the time you have given today and the brief you have presented. Certainly, all briefs are being considered by the committee and are very helpful, and I thank you once again.

Mr. Vandezande: Thank you.

Mr. Chairman: We move on to the next deputation, which is the Coalition Against Open Sunday Shopping, and Mark Silverthorn. If the members

or groups could perhaps could give the next deputation access to the table, it appears to be more than just Mark Silverthorn, so perhaps, Mr. Silverthorn, you could identify the other three people who are with you, for purposes of Hansard.

You were here yesterday and I am sure you are aware of the rules, but I will just reiterate them. You have 30 minutes and may use all or any part of it for your presentation, but we would appreciate it if you would leave some time for questions by members of the committee. You may proceed.

COALITION AGAINST OPEN SUNDAY SHOPPING

Mr. Silverthorn: Good morning, Mr. Chairman, committee members, ladies and gentlemen. My name is Mark Silverthorn. I am from the Canadian Retail Hardware Association. I would like to introduce my colleagues here today, who are all members of CAOSS. To my left is Ross Rigney, with Sears Canada, to my far right is Jacob Kim from the Ontario Korean Businessmen's Association, and to my immediate right is Marla Young, representing Universal Lamp and the Lighting Retailers Against Sunday Shopping. In the public gallery this morning are a number of other members of the board of directors of CAOSS.

It is difficult to believe that the proposal to eliminate the common pause day has made it as far as the committee hearing stage in what is supposed to be a democratic system. Originally it was our intention to make a formal presentation delineating many of the technical problems that our coalition sees with the proposed legislation. We will simply table that document, because today I would like to comment on the process that we and hundreds of other groups are being asked to submit to in these hearings. The question is, is this an honest hearing into the issues or is this a public relations exercise to enable the government to say that it consulted with the people?

The over 300 organizations—retail stores, trade unions and religious groups—that form the Coalition Against Open Sunday Shopping have been shocked and dismayed at our treatment at the hands of this government over the past six months. When we requested a meeting with the Premier (Mr. Peterson), we did not even have the courtesy of a reply. This entire process has been a very sobering experience for our three million members. We have learned a great deal about how a parliamentary democracy really works.

As everyone here knows, the provincial Legislature had two previous committees study this issue: the select committee on retail store hours and the Ontario Progressive Conservative task force on extended shopping hours. Hundreds of groups appeared before those committees to explain why they were opposed to open Sunday shopping.

Unions told them that if there was wide-open Sunday shopping, the quality of life of hundreds of thousands of families would be harmed. Other groups, like the One Parent Family Association, explained that many children of single mothers working in the retail sector would become seven-day-a-week latchkey kids if there was open Sunday shopping. Business associations presented briefs explaining that they would have to increase prices, in some cases by up to 15 per cent, to cover their additional costs. Church groups and associations representing quality-of-life concerns also argued about the importance of a common pause day.

As we all know, both of those previous legislative committees recommended against wide-open Sunday shopping. Their recommendation was that a

common pause day be retained. The Premier agreed with the report of the previous select committee. He publicly endorsed it. In fact, during the provincial election, Mr. Peterson stated categorically that he planned no changes to the principle of a common pause day if his party formed the government. Even after the election, as late as November 24, Premier Peterson maintained that there would be no change in the provisions for a common pause day.

Now, so far, that is how I understand democracy works. But what has happened since then, Mr. Chairman? Let me tell you and the members of this committee just why the members of our coalition and the millions of people we represent have arrived here today disillusioned and angry.

We were disillusioned and angry when, after all the assurances from the Premier that no fundamental changes would be made to the common pause day, the Attorney General, Ian Scott, began saying things like: "Ontario is changing, it's not the same society it was 40 years ago. Perhaps there should be Sunday shopping."

This is the same Mr. Scott who, just a few months previously, argued in his factum before the district court of Ontario that wide-open Sunday shopping would cause harm to the fabric of Ontario's society. Let me quote just what the Attorney General's factum said when the Magder case was appealed. It said:

"The evidence 'overwhelmingly' indicated that there was a need for a legislated pause day due to a reluctance on the part of many industries to regulate themselves in accordance with this objective. There is an accompanying erosion of the opportunity for retail workers to participate in leisure activities with family, friends and others. A uniform pause day was needed to allow the pause day of retail workers to coincide with that of their school-aged children, spouses and friends and community events. A quality common day of recreation was needed for as many of Ontario's citizens as was possible."

Furthermore, in the pre-election statement to the courts, the Attorney General's factum stated:

"Employees in the retail sector were viewed as being in need of a statutorily mandated day of rest. Without such a regulation prohibiting Sunday openings, the vigorous competition for market share would force many retailers to open. Retail employees are generally nonunionized, have low job mobility and few if any mechanisms for the redress of grievances. As a group, retail workers are not 'in an economic position to negotiate a satisfactory financial arrangement for Sunday work' and 'are subject to subtle economic pressure to work, particularly in large establishments where employee resistance to management decisions to open would be met simply by replacing the resisting employee.'"

This is the essence of the arguments that have been presented by the coalition over the past six months. They are the same basic arguments. However, suddenly, with 95 seats in the Legislature, Mr. Scott and a couple of other members of the cabinet began saying things like, "People who are opposed to Sunday shopping are not with it."

Let us remember that period. Ontario was filled with a new sense of optimism. After 40 years, we had elected a new majority government that was determined to be open, progressive and up to date. It was a total surprise to us that people who valued time with their families were not with it. We were disillusioned.

We were also disillusioned and angry when the new Solicitor General, Joan Smith, began repeating Mr. Scott's personal beliefs. We were angry and disillusioned because this was the same Joan Smith whose signature appears on the select committee report of only a few months before, supporting the retention of a common pause day.

1200

At that point last January, the Coalition Against Open Sunday Shopping was formed and we literally mushroomed overnight; over 300 diverse groups representing over three million people. If I may, I would like to comment on the nature of this coalition for a moment.

Here we had the most unusual and eclectic group of bedfellows come together under one common umbrella. We have unions, retailers, quality-of-life groups and churches all saying: "We have been betrayed. That is not what you promised."

We thought the simple act of forming such a coalition would have impressed politicians. Some were, but not the Premier's office. In that initial period, the Premier's office told us that it had public opinion on its side, and it did. When Ontarians were asked the simple question, "Are you in favour of shopping on Sundays?" some 60 per cent said yes. Why not? Asked that way, a lot of us would say yes.

We took the Premier's office at its word. They were impressed with public opinion polls. Our challenge was to reverse public opinion, at least that is what they told us back then, so we and others raised money to take out ads in newspapers across Ontario to explain the real impact of open Sunday shopping. We explained to Ontarians the real facts of open Sunday shopping and local option.

Today, 57 per cent of Ontarians are opposed to open Sunday shopping as a result of our public education campaign, and 71 per cent want a uniform law for the whole province. We have majority opinion on our side, not them.

However, it appears now that the goalposts have been changed. The Premier's office apparently does not think that polls are very important. Last week, we had the Solicitor General appear here at this committee complaining about a misinformation campaign on our part.

Really. We are supposed to feel sorry for this poor little government, with its access to a multimillion-dollar communications machine, because the coalition took up its challenge to change public opinion. Come on. We conducted an honest, fair and straightforward public education campaign that told people about the downside to this issue. We are just a group of churches, unions, retailers and groups concerned about quality-of-life issues. We are not some machiavellian force that stands to make a buck out of this.

Our members honestly believe that local option will lead to wide-open Sunday shopping and that wide-open Sunday shopping will harm the quality of life in Ontario, and we have convinced the public that we are right. Now the government says public opinion does not matter, and then it has the audacity to say we have misled the public.

Yes, we were angry and disillusioned. We tried to figure out how to convince the government that it should back down on this issue. We thought, "Let's go where politicians really understand polls, the ballot box." So we

entered the London North by-election and distributed literature to the 50,000 households in the riding next door to Premier Peterson's. There is no question the government's candidate was rejected largely due to opposition to Sunday shopping. Mrs. Cunningham can testify to that.

But what happened after the by-election? Mr. Peterson said it had nothing to do with Sunday shopping. He said local municipalities liked the idea of local option.

Again we were disillusioned and angry, but we did not give up. We took up the Premier's challenge. We wrote letters to the 6,000 elected municipal politicians across Ontario asking them to tell Mr. Peterson what they thought of local option, and the response was stunning. Two thousand, eight hundred municipal politicians wrote to the Premier telling him to back off. The Association of Municipalities of Ontario passed a resolution against local option, most of the 800 municipal governments passed resolutions against Sunday shopping, and several have now contributed financially to our coalition.

Quite clearly, municipalities have told this government that they do not want local option, but still it will not listen. What did it do? The government then said it would be good for business. Disillusioned and angry, you bet; defeated, no way. We raised more money and sent a direct-mail letter to over 10,000 retail stores across Ontario asking them to let their views be known. The members of your committee saw the response. MPPs have never had more mail on any other subject. You know that this issue cuts deeply and that people feel very strongly about it.

In fact, they will vote you out of office if you do not learn to listen. They did it in London North and they will do it again at the next general election. The members of this Legislature understand that. Nevertheless, despite the fact that the majority of MPPs are against wide-open Sunday shopping, the Premier's office seems intent on ramming this legislation down our, and your, throats.

Seventeen Tories, 19 New Democrat and 56 Liberal MPPs have told us that they are personally opposed to this legislation. That is a majority, is it not? But that is not how this legislation is going to go if the Premier's office gets its way.

Why would we not be anything but cynical? When we argued that people would be forced to work on Sundays against their will, the Minister of Labour (Mr. Sorbara) countered with a bill that he argued would protect workers. We said the bill was unworkable. Mr. Sorbara argued vehemently that it would work. Yet last weekend we read reports in the Toronto Star of the minister clearly admitting that workers who are forced to agree to Sunday shifts when they are hired would have little chance of convincing a government-appointed referee that Sunday work was unreasonable.

Even the minister knows his own bill is unworkable but he, too, is under pressure from the Premier's office not to back down.

I have here a confidential document issued by the office of the Solicitor General to all Liberal MPPs. It is a document that is filled with distortions and half-truths about this issue and I think it is important to expose it in full public view.

The message of the secret briefing is there. It tells the back bench of the Liberal Party caucus to get on board on the issue of Sunday shopping. Let

me quote from the Solicitor General's cover letter to Liberal back-benchers. She says: "As you are aware, it is imperative in dealing with an issue of this importance and sensitivity that members of this government speak clearly and consistently."

Consistency: That is the instruction to all Liberal back-benchers, including the Liberal members of this committee.

Just what is a group like ours supposed to think? Am I here arguing with a committee composed of deaf mutes or is this an honest process? What are we to think? Of course we have become cynical and disillusioned.

Let me continue to quote from Mrs. Smith's letter. She says: "Our decision must be clearly expressed when talking to constituents, the media and general public. This is of particular importance in terms of alleviating the misconception that we are implying wide-open Sunday shopping. Instead, we are saying that people in their own localities should have a say in when retail outlets are allowed to open."

Mrs. Smith clearly fails to mention that what this means is that there will be no common pause day. If there is any doubt about the intent of the Solicitor General's letter, all one has to do is read the answers supplied to Liberal caucus members to be used when questions regarding Sunday shopping are posed by the media or constituents.

These answers are provided on what the Solicitor General appropriately calls yellow sheets. Since you and the other Liberal members of this committee have already received these instructions, let me read them for the edification of your other colleagues on this committee.

Your instructions tell you how to respond to the question, "Are you personally in favour of Sunday shopping?" Here is your answer: "The government intends to allow a municipal option on this issue because it gives communities the freedom to choose what is best for them. What may be appropriate for Niagara-on-the-Lake or Sault Ste. Marie may not be appropriate for London or New Liskeard."

The Solicitor General has told the Liberal back bench and the Liberal members of this committee that you do not have a personal opinion. The instruction is clear: duck the question and support local option, no matter what your personal opinion on the issue is.

This is supposed to be the justice committee. How can we take this exercise seriously when you and other members of this committee are operating under such frank and clear instructions?

We have a list of 10 Liberals who have publicly opposed wide-open Sunday shopping and the names of 46 others who have privately assured different members of the Coalition Against Open Sunday Shopping that they are not in favour of this legislation.

The Solicitor General has told these 46 members that they cannot publicly oppose these bills, and she has told the Liberal members of this committee to back her up on the local option.

I do not know how the government runs its caucus meetings but I would bet that if the Premier's office allowed a secret ballot on this issue in the government caucus, the bills would be stopped then and there.

The question I have to ask is, is this committee independent and arm's length from the government or are you under orders to ignore each of the 300 groups that will be appearing here before you?

Of course, we are becoming more cynical and more angry in the face of such pressure from the Premier's office on you. Let me give you just a few examples of how the back bench of the Liberal Party is being misled in this issue.

The secret briefing says: "There is not a universal pause day in Ontario today. Many retailers in Ontario presently open on Sundays under exemptions in the present act. One in three Ontario workers are already compelled to work some Sundays."

Let's remember that these instructions come from the same minister who accused the coalition last week of distributing misinformation. Mrs. Smith has been wandering about these halls for the past six months saying that 30 per cent of Ontarians already work on Sundays. Fact: Only four to five per cent of the population works on Sundays.

Furthermore, nowhere does the Solicitor General justify why the unhappy but perhaps necessary requirement of Sunday work for five per cent, or 30 per cent for that matter, should be extended to others. Is harm to a few people decreased by harming even more people?

The confidential briefing for the Liberal back-benchers also states, "Since opening most of its department stores in Alberta and British Columbia about four years ago, one retail chain has increased overall sales by four per cent."

Such statements only beg the questions: What chain? Which stores? Are the increases the result of Sunday opening or an expanding western economy or just improved marketing? In fact, if anything, it sounds as if this retail chain's competitors, in particular its small competitors, will have to open Sunday in order to win back some of that four per cent market share.

The secret briefing for Liberal back-benchers quotes from a study entitled The Impact of Sunday Shopping in Alberta, 1982-86. The study says: "Consumer spending initially increases by 15 per cent when Sunday opening restrictions are relaxed. The increase then levels off at three to four per cent, with tourism accounting for much of the increase."

That study can only represent a snapshot in time, taken at the three to four per cent level, as the consumer spending increase was moving back down towards zero. Further, it must reflect in part the phenomenal tourist draw of the West Edmonton Mall.

As an aside, we stand behind our criticism of the Solicitor General's comments regarding this study. However, it has come to our attention as late as yesterday that the study entitled The Impact of Sunday Shopping in Alberta, 1982-86, referred to by the Solicitor General in her secret briefing does not exist. In fact, it was never written. We have checked with the consultants who are supposed to have written the study and they advise us that they never wrote any such report. We believe the Solicitor General has misled her own caucus and that this study exists only in someone's imagination.

The secret brief for Liberal back-benchers also says, "In Massachusetts, 6,000 full- and part-time jobs were created within the first six months after Sunday closing laws were repealed."

However, the fact is that in Boston many employees say voluntary Sunday work is already more fiction than fact. Even though there are no documented cases of anyone being fired for refusing to work, in practice, the only choice many prospective retail workers face is whether or not to accept a job that sometimes requires them to work Sundays.

One of the advantages Canada has always had is to avoid the mistakes of the Americans; to observe what is happening to the lifestyle south of the border and to make the determination not to import it here. Is it any wonder we have become so cynical and angry about this process? This has been a travesty from the beginning.

We were promised in the election campaign by the Premier himself that if he was elected, he would not alter the basic principle of the common pause day. We had the Attorney General arguing all of our arguments before the provincial courts before the election and then watched him lead the charge for wide-open Sunday shopping after the election.

We saw the Solicitor General place her signature on a select committee report opposing open Sunday shopping and then introduce legislation designed to eliminate the common pause day. We heard the Premier's office tell us that they were simply responding to the will of the people when they thought that 60 per cent of Ontarians were for Sunday shopping. Yet today we see them saying that public opinion does not matter, now that 57 per cent of the people are against them.

Our original submission to your committee was to be a paper entitled CAOSS's Critique of the Retail Business Holidays Amendment Act, 1988, and the Employment Standards Amendment Act, 1988. In it, we show precisely how these bills are flawed. However, because we felt compelled to respond to the Solicitor General's document and the process that we have been subjected to, we have chosen to present the critique as a written submission only.

Nevertheless, I would like to comment on the issue of the so-called domino effect of local option. Throughout the Solicitor General's secret document and throughout the debate on second reading of Bill 113, the government has maintained that local option and wide-open Sunday shopping are not connected. The coalition knows that they are.

Many of the different associations and organizations that will be appearing before you have varying views on your proposed legislation. However, our coalition was formed almost spontaneously because all our members knew that local option guaranteed eventual province-wide, wide-open Sunday shopping. Our critique deals with why we see this as a certainty that cannot be denied.

Mrs. Smith has accused opponents of Sunday shopping of being involved in some kind of underhanded misinformation campaign about the domino effect. If she was fair, she would say that we have a difference of opinion and that time will prove one of us right. We think we are right and we think we can prove it.

In British Columbia, open since 1981, 55 of 146 municipalities are open on Sundays, and in the areas not open, the public and police are so confused about what the law is that no one is enforcing closing bylaws. The domino effect opened up the city of Vancouver in response to Sunday shopping in neighbouring municipalities.

In New Brunswick, the same thing happened. When St. Andrews opened for

Sunday shopping, St. Stephen, 20 miles away, was forced to open in order to get back some of the business it had lost. The McKenna government in New Brunswick has now responded to the public demand and the request of its municipalities by introducing legislation that will grant authority to a government-appointed board which will have the authority for designating tourist areas.

That is the kind of compromise position that the members of the Coalition Against Open Sunday Shopping are looking for from this committee. Mrs. Smith says that she is abandoning the common pause day and introducing local option because the existing legislation is not working. We believe that it would be prudent to look at ways to make the legislation work. The New Brunswick example just might be the appropriate mechanism.

As an aside, the government has argued that local option does not inevitably lead to wide-open Sunday shopping. I would like to point out that there has been a common theme running throughout all the presentations so far from those who support the government's bills and those who are opposed. The many who oppose the legislation have argued that local option means wide-open Sunday shopping and that it is a bad thing. The few who have supported the legislation have argued that local option means wide-open Sunday shopping and that it is a good thing. There is no doubt in the minds of all presenters or anyone with a modicum of understanding of the political process, business or human nature, that local option means wide-open Sunday shopping and it will be inevitable.

I just hope that this committee is willing to explore those options and will ignore the instructions from the Solicitor General's office.

I know that the government has been counting on a hot, lazy summer to cool out this issue. Let me assure you that your hearings this summer will be anything but lazy. The debate will be heated and the reaction to this legislation will be very negative.

The question is, what will this committee do? It cannot possibly find new evidence which will reverse the findings of the two previous committees, can it? The question becomes, who are you listening to—the people or the Premier's office?

Let me assure you, the Coalition Against Open Sunday Shopping will not disappear quietly. We will be awaiting your findings to determine if they are a reflection of the testimony you will hear across this province or if you too are being forced to march to the instructions issued to you and the rest of your caucus.

1220

Frankly, I do not think you can blame us for feeling cynical, frustrated and angry. After promising full and open hearings into this matter, the government, again, has demonstrated its views on the democratic system. As you know, the day before these hearings began, the Solicitor General stated emphatically to the media that the local option clause is strictly non-negotiable, regardless of what this committee recommends.

Mr. Chairman, I do not mean any disrespect to you or your committee but, frankly, that makes you eunuchs, if it is true. The question is, is it? I do not see how you can honestly go through the gruelling pace of hearings that you have set for yourselves over the next two months if the minister is

seriously saying she will not listen to you anyway; and I do not think any of the 300 groups that will be appear before you can be expected to take this committee seriously if you do not publicly repudiate the Solicitor General's instructions to the Liberal members of this committee.

Really, this issue has now become one of due process. If legislative committees have become rubber stamps of the intentions of the government, then they are a colossal waste of time and money. I appeal to this committee to find a compromise on the local option issue.

Mr. Chairman: Thank you very much, Mr. Silverthorn. You were right on the 30 minutes until you moved into this other area, but I commend you for your timing. Unfortunately, there is no time for any members of the committee to ask questions.

Mr. Philip: It is a major brief. Could we not allow five minutes each by unanimous consent?

Mr. Pelissero: Could we invite him back, as we said we would do with Mr. Danson?

Mr. Chairman: I am in the hands of the committee.

Mr. Philip: Five minutes each.

Mr. Jackson: Just for clarification, Mr. Chairman, I understand we have perhaps half an hour or so to debate two motions that are before the committee and we are also reconvening at 1:30 because we are getting a briefing from the Ministry of Labour. That would leave us about 10 to 15 minutes for lunch.

Mr. Chairman: We may have to order in lunch at this rate. I think your half hour for the two motions is probably well understated. Experience demonstrates that it will be longer than that.

Miss Roberts: May I suggest, just for the chair, that we give a minute for each person to comment with respect to this. They made it very clear that they wanted to present the critique to us and they wanted to make their particular presentation.

Mr. Philip: A minute for each member?

Miss Roberts: A minute for each party, so that our comments could be—

Mr. Chairman: Is there unanimous consent from the members of the committee?

Mr. Philip: Two minutes.

Mrs. Cunningham: I have to remind you, Mr. Chairman, if you do this for one group, then you do it for the next.

Mr. Chairman: The presenters have appealed to us to find a compromise on the local option issue and we cannot even find a compromise right now on how many minutes. Can we put this to rest? We are delaying the other business of the committee. Would somebody put forward one minute, two minutes, three minutes, whatever, and let's go with it.

Mr. Philip: I move that each caucus be given three minutes to ask questions or comment on the brief.

Mr. Chairman: You are making that a motion, are you? We cannot do this by unanimous consent?

Mr. Philip: You asked for a suggestion so I moved it.

Mr. Epp: Let's debate the motion.

Mr. Philip: I ask that the motion now be debated.

Mrs. Cunningham: How about a one-minute statement?

Mr. Chairman: There is a motion on the floor, Mrs. Cunningham.

Miss Roberts: I move to amend the motion, that it be one minute and that it be—

Mr. Chairman: That would be contrary to the motion on the floor and that is why I reject the amendment. Is there any discussion on Mr. Philip's motion?

Mr. Philip: I will amend my motion to one minute.

Mr. Chairman: Mr. Philip, you cannot amend your own motion.

Mr. Philip: I will withdraw it in favour of Miss Roberts's motion of one minute.

Mr. Chairman: Do we have unanimous consent? Let's do it by unanimous consent. Is there unanimous consent for this committee to have one minute for each caucus?

Agreed to.

Mr. Chairman: Mr. Philip, you can start, then Mrs. Cunningham and Mr. Kanter.

Mr. Philip: If I might summarize what I think I hear you saying, you are saying that the Solicitor General misled members of the committee and that she lied to her own caucus in a paper presented that quoted a nonexistent research paper from Alberta. Is that a correct summary of what you said?

Mr. Silverthorn: I do not know if I would use the word "lie," but certainly "misled" would be appropriate under the circumstances.

Mr. Philip: I will ask you a further question: You have said that there is a compromise and that the compromise might be the reversal of the municipal option that is now being moved in New Brunswick. You are familiar with that; you have studied their proposals; you feel that is a workable solution to the present problems that the Solicitor General claims are connected with the tourist option and that it would work in Ontario. Is that correct?

Mr. Chairman: We have to move on, Mr. Philip.

Mr. Philip: Yes is the answer to that one.

Mr. Chairman: That is your one minute.

Mrs. Cunningham: Mr. Silverthorn, I thank you, certainly on behalf of the citizens of London North, for the action you took during the by-election in informing the public and thus allowing me to be here to represent the citizens of London North. If you had been in my constituency office yesterday, you would wonder whom I represented, with the numbers of calls we are getting on this very issue. I share your concerns. Your words "frustrated, cynical and angry," are certainly my feelings today as I listen to your brief.

I myself was given access to that document last evening and I certainly will continue on with this committee. I will be asking the committee to speak to the Solicitor General with regard to the direction that we have and the authority that we have to move forward. I am very much disappointed in the direction that was given to the government on this issue.

Mr. Chairman: I am sorry, Mrs. Cunningham. Your minute is up.

Mrs. Cunningham: I am sorry the government has the last statement, but I am sure some of us will be able to speak publicly later. Thank you very much.

Mr. Chairman: Mr. Kanter, you have one minute.

Mr. Kanter: The government has agreed to a most extensive consultation process on both these bills. We are having extensive hearings, not only in Toronto but in 13 municipalities across this province, during which the views of all the deputants will be taken into—

Interjections.

Mr. Chairman: Gentlemen, you have each had your minute. Now I think it is time to give each committee member his or her fair minute, please.

Mr. Kanter: The spokesman for the deputants, I think, is quite familiar with the political process. I think he is quite aware from his past experience working for a previous administration in this province that the normal course is to consider legislation and to make improvements based on the legislation that is before us.

This is the process we are now engaged in. This is the normal democratic process in Ontario. We invite suggestions for the improvement of legislation—

Mr. Chairman: Your minute is up as well, Mr. Kanter.

Mr. Kanter: —within the context of the normal democratic process.

Mr. Silverthorn: Are you suggesting that the municipal option is negotiable?

Mrs. Cunningham: That is the key question. We have run out of time. Don't embarrass them.

Mr. Chairman: I am sorry. The committee agreed, and as a matter of fairness, if I let that question be responded to, then the other members of the committee are entitled to that as well. I regret to say time moves on and we have other items we have to deal with: two motions, one introduced by Mr.

Philip and one by Mr. Jackson. We thank you very much for your brief, though, and for taking time out of your schedule to come here.

We have before us the first motion presented to us by Mr. Philip. It has already been read earlier. Mr. Philip, you now have the opportunity that was delayed from this morning, if you wish.

Mr. Philip: When the room clears.

Miss Roberts: Maybe we could have lunch for five minutes while they talk to the press.

Mr. Kanter: Maybe we should adjourn.

Mr. Chairman: No. Can we have the committee members who are participating back at the table, please? Mr. Philip, you have moved your motion. It has been introduced into the record. You had a statement or argument on the motion. You can present that now.

Mr. Philip: I would like to table a document called Information, from the Ministry of the Solicitor General of Ontario, and make that now a public document. That was the confidential memorandum which I gather was sent to the Liberal members.

1230

To address my motion, the motion very clearly invites the Solicitor General to come on August 15 at 9 a.m. The committee was scheduled to meet at 10 a.m. Therefore, my motion will in no way distract from the deputants who are anxious to make presentations to us. Alternatively, at the minister's own convenience, other days could be chosen if the minister is not available on that date.

There is strong evidence that members of the standing committee on administration of justice have been misled. Testimony provided by representatives of the Association of Municipalities of Ontario on August 9 and by representatives of the large urban section of AMO yesterday directly contradict statements made by the Solicitor General on August 3. I view this as a serious matter. Therefore, I have moved my motion.

When the minister appeared before the committee on August 3, much of her rationalization for Bill 113 was that the tourist exemption under the existing act does not work. The minister was asked, "Did you consult with the Association of Municipalities of Ontario around the definition of 'tourism'?" She responded: "I met with AMO on this. They refused to discuss any of these issues."

I further asked her the question, "Is it or is it not true that you did not specifically ask AMO to assist in coming up with a more workable definition?" The minister replied: "I told them that we did not have one and that this, along with other matters, was our problem. We have had no input back from them."

On August 9, I was assured by Mr. Hopcroft, testifying on behalf of AMO, that at no time had he refused at any meeting to assist the minister in coming forward with an appropriate definition of "tourism." Furthermore, Mrs. Brick, speaking on behalf of the delegation stated, "We made our offer to sit down and define 'tourism,' and on more than one occasion."

In addition, she stated that AMO had repeatedly asked for specific examples of where municipalities were abusing the tourism exemptions and how many municipalities were using this exemption, and that the information was not forthcoming until the day on which the bill was introduced. She added that AMO had spoken to the Solicitor General three times about this and that the Solicitor General rejected AMO's offer of assistance. Similar testimony was provided only yesterday by the large urban section of AMO in the presentation provided by Mr. Moscoe.

I deeply resent that it appears this committee has been misled. I deeply resent that an organization has been slandered by the Solicitor General and I think—

Mr. Kanter: I have a point of order.

Mr. Chairman: What is your point?

Mr. Kanter: The member appears to be alleging that the minister misled this committee. That is clearly not parliamentary in the House. I expect it would not be parliamentary in this committee either.

Mr. Chairman: Mr. Philip, you may wish to reconsider the language you used. In fact, your motion seems to put it in perhaps a better fashion. I rule that the objection is proper. Perhaps you would like to reconsider.

Mr. Philip: If the word "misled" is implying that I am saying she lied to the committee, I will rephrase it. I will say that the information provided by the Solicitor General is in direct contradiction to the information provided by AMO's representatives.

Mr. Chairman: I think that wording is acceptable.

Mr. Philip: It is fairly obvious to me that as members of the standing committee on administration of justice, we have an obligation to find out what is the truth. I rest my case.

Mr. Chairman: Mr. Jackson, do you have any discussion on this motion?

Mr. Jackson: No. We share the concern about the apparent contradiction, especially when it was enunciated by several members of AMO clearly before this committee. I believe the minister would welcome an opportunity to come forward. I personally believe the matter should be clarified, as should the document that was just tabled which will be made available to all members, in terms of the secret government memo directing members of this committee and other members of the Liberal caucus how to perform and stickhandle this bill.

I believe the minister should be in a position to respond not only to the allegations but also to the document that is now in our possession, so we will support the amendment and invite an opportunity for the minister to address those concerns.

Mr. Chairman: You will support the motion, I gather.

Mr. Jackson: That is correct.

Mr. Chairman: Are there any comments from any members of the Liberal caucus?

Mr. Kanter: Yes, I would like to speak in this regard. We will not be supporting these motions. I do not believe there is any evidence of serious differences.

Mr. Hampton: Maybe I am interrupting, but I have to second exactly what was said by the people from the Coalition Against Open Sunday Shopping: This is becoming a joke.

Mr. Chairman: I am sorry; you had your opportunity and I am giving the opportunity to Mr. Kanter now. If you wish to have a comment afterward—

Mr. Hampton: I will take the opportunity to laugh. This is becoming a joke.

Mr. Chairman: You are making this committee a joke by interrupting, fellow.

Mr. Hampton: With all due respect, I do not think I am.

Mr. Chairman: Just a second; you will have an opportunity to speak. Mr. Kanter.

Mr. Kanter: Thank you. I do not believe there is any evidence of what Mr. Philip terms serious differences between the testimony of the minister and that of AMO. I have no quarrel with the quotes of the minister that were read by Mr. Philip. However, I do have a serious quarrel with the interpretation that he has put on the comments of Mr. Hopcroft when he was here speaking on behalf of AMO.

I would like to quote from the transcript of the meetings of this committee on Tuesday, August 9, where Mr. Hopcroft was asked in a question, I believe from Mr. Philip, about what his position was in terms of discussions with the minister. Mr. Hopcroft said, "We have said we were not"—and I will add the emphasis "not"—"prepared to discuss local option, because that is something we have no mandate to discuss from our board." It is my recollection that when Mr. Moscoe spoke to us more recently—regrettably, no one has a transcript from yesterday; he certainly could not be considered in any way, shape or form a friendly witness to this government—he was extremely candid in admitting that AMO had absolutely no interest in discussing local option.

I would like to give a little background that relates to the attempts on the part of the Solicitor General to communicate and consult with AMO, a very important interest group within this province. On December 1, 1987, the day the intention to introduce this legislation was first mentioned in the House, the minister met briefly with Doris Brick and Mac Dunbar, the executive director of AMO, in the government caucus office to make it clear that she welcomed their input on the legislation both before and after its introduction. On February 4, 1988, the Solicitor General met with AMO, in conjunction with the Minister of Municipal Affairs (Mr. Eakins), at the offices of the Minister of Municipal Affairs.

On February 18, 1988, the Solicitor General met with AMO. I believe the occasion was its semi-annual meeting, and again I believe the Minister of Municipal Affairs was in attendance. On June 16, 1988, the Solicitor General met at the Novotel Hotel, addressed the seventh annual meeting and held a question and answer period with AMO. In addition, the Minister of Municipal Affairs has held regular meetings with AMO.

I understand that in addition to these formal meetings, at the February 18 meeting, in conjunction with other meetings I have mentioned, the minister specifically asked Doris Brick, who was one of the presenters for AMO, to present options to her and to consult with the ministry about those options. Again, Mrs. Brick of AMO took the position that AMO—I guess this is the kind of language here—had not come to discuss how it wanted its eggs cooked—boiled or fried—it did not want its eggs cooked, period.

I understand that at the end of July, the minister had a further telephone conversation with Doris Brick.

1240

Mr. Jackson: Read J-34.

Mr. Chiarelli: Stop interrupting.

Mr. Chairman: Mr. Jackson, I have asked once. You will get an opportunity, if you wish, to speak again, but at the moment one of your colleagues is speaking.

Mr. Kanter: I understand that at the end of July, the minister again telephoned Doris Brick personally and invited her to come before the committee with any suggestions the Association of Municipalities of Ontario might have with respect to the process. Obviously, Mrs. Brick came before the committee. Whether they had any suggestions re process is a matter all members of the committee can consider by consulting Hansard.

In addition to the verbal description I have given, there are a number of letters that went back and forth between the minister and AMO. I would like to quote briefly from one or two of them. I would like to submit them all to the clerk for the record. In some cases, these are letters from the Minister of Municipal Affairs. They are, in all cases, relevant to this issue.

A letter of January 12, 1988, to Doris Brick, the president of AMO, from John Eakins, copied to the Honourable Joan Smith, which she was well aware of, relating to various options for the local option:

"As well, in discussing these options, I would appreciate receiving AMO's comments on whether regulation should be at the area of municipal or regional municipal levels; and on the various constraints outlined in the discussion paper which other provinces have placed on the exercise of municipal regulatory authority.

"I look forward to our discussions following your board of directors' meeting."

There was a subsequent letter from the Solicitor General, who is of course named in this motion, of March 28, 1988, to Doris Brick. Again, I am going to read one paragraph from this letter. I can assure you this is consistent with the other paragraphs. I would be delighted to read all of the paragraphs, should the committee so wish. The Solicitor General wrote to the president of AMO. This was dated March 28, 1988, and I think that is very important because it precedes the introduction of the legislation by about three weeks.

"As you know, no new legislation has been introduced yet and we are currently consulting with a number of groups concerned with the issue in order

to arrive at the best means of implementing our decision. I remain open to discussing this issue with your association should you so desire."

I do not think it could be any clearer. I do not think the efforts of the Solicitor General to consult with this particular group, a very important interest group in Ontario, could be much clearer. I repeat my submission: there is no evidence that there are differences in the stories told by the two groups. I submit that the minister was perfectly open to discussion and that AMO, for reasons which may be perfectly valid, was not open to discussion on those points.

I will go further and suggest that even if there were further serious differences, and I want to be very clear that I do not think there were, I think it would be a very big mistake to defer this committee from its extremely important work of examining this legislation. We have two pieces of legislation before us. They are obviously contentious. I think we have a very substantial and difficult task to try and work with the various groups that have appeared before us and to adopt, where we can, some of their proposals and come up with an even better and more improved piece of legislation.

I would be very fearful hearing from the minister or others about the discussions that have occurred between interest groups in any greater detail—I have tried to bring some detail because there has been some background before the committee today—and that any attempt to do this would inevitably spill over into the real work of this committee, which is hearing from members of the public, analysing their concerns and acting on those concerns where we can. So for both of those reasons, I urge all members of this committee to vote against the motion put by Mr. Philip.

Mr. Chairman: Mr. Hampton, you now have an opportunity to speak.

Mr. Hampton: Yes, I do, and I thank you for that because I want to point out clearly what we are talking about here. We are talking about the questions directed both by Mrs. Cunningham and Mr. Philip. The question was, did the minister ask the Association of Municipalities of Ontario for assistance in dealing with the problem of the tourism exemption? That is what we are dealing with here. I think that is very clearly what Mr. Philip's motion is aimed at.

That is where the variance in the testimony occurs, because if you follow the questioning from Mrs. Cunningham on Wednesday, August 3, she goes into detail on page J-23 and following, asking the Solicitor General, "Did you ask AMO or any other municipalities for suggestions on how to define the tourism problem, on how to deal with tourism?" There is a lot of steering around on the answer.

For example, on page J-23, about a quarter of the way down the page, it was asked of the minister, "Since you talked about the difficulty in using the tourism exemption," which municipalities did she talk to? The minister says, "I met with AMO on this. They refused to discuss any of these issues. Nobody, not the Coalition Against Open Sunday Shopping, not any municipality, has proposed a definition of 'tourism' that it believes would stand up in the courts and apply across the province."

If I go back and read the question, Mrs. Cunningham says: "I will just ask my last question then. What municipalities did you consult with—again, I am on page 6...or did you consult with the Association of Municipalities of Ontario around the definition of 'tourism'?"

We are not dealing with the local option part. I believe AMO and all other groups have made it fairly clear that they do not want to talk of a local option. The question was asked of the minister, "Did you ask them for submissions on tourism, on dealing with the problem of tourism?" Again, the answer was: "I met with AMO on this. They refused to discuss any of these issues. Nobody, not the Coalition Against Open Sunday Shopping, not any municipality, has proposed a definition of 'tourism' that it believes would stand up in the courts and apply across the province."

I can go on because Mr. Philip went on over that, went back to that issue and wanted to talk about it. OK? He wanted to say: "Have you discussed the tourism question with AMO? Have you discussed the tourism question with any other municipalities?" And again the answer came back, "Didn't get any answers from them."

Mr. Kanter: Why do you not read this—

Mr. Hampton: I will get to that because I think the crux of the matter then comes down to Mr. Hopcroft from AMO. OK? Mr. Philip says on page J-34 of that transcript: "You dealt with an issue that both Mrs. Cunningham and I questioned the minister extensively on. The minister, specifically in response to the question, 'Did you consult with the Association of Municipalities of Ontario around the definition of "tourism"?'—and remember that this was in the context that the minister said a definition of 'tourism' could not be found and therefore she had to bring in this legislation—responded: 'I met with AMO on this. They refused to discuss any of these issues. Nobody...not any municipality, has proposed a definition of "tourism".'"

Mr. Philip said, "I gather from what you have said that you are saying the minister in fact was not accurate in her information to the committee, that you at no time refused at any meeting you had with her to assist her in coming up with a more appropriate definition of 'tourism' under the present act."

Mr. Hopcroft says: "That is correct. We have said we were not prepared to discuss local option, because that is something we have no mandate to discuss from our board; however, we have expressed on numerous occasions a willingness to work within a provincial framework, without the local option, to define 'tourism' and come up with other definitions that would fit within a provincial framework."

Let's keep the local option stuff out of this. The key part to Mr. Philip's motion is that there is some variance between the answers the minister gave and those that representatives of AMO gave on defining the tourism question. Mr. Philip's questions were specifically directed at the tourism question. Mrs. Cunningham's questions were specifically directed at the tourism question.

That is where the variance in the answers occurs. I submit that we have an obligation to the 300 groups that are going to appear before us, to the Legislature and to the people of Ontario to ask the minister back to have this issue clarified. That is the substance of my remarks.

1250

Mr. Chairman: All right. Are there any other members? I think your half hour was rather underestimated in terms of time, Mr. Jackson.

Mr. Jackson: You are absolutely right, Mr. Chairman. I will be very brief. I am concerned at the position the government members have found themselves impelled to take. I think it should be noted that all through the course of these hearings, at any one time there have been five or six staff members from the Premier's office, the Solicitor General's office and the Minister of Labour's office—these are personal political staff; I am not talking about civil service positions—who have been monitoring these hearings. It strikes me as odd that Mr. Kanter, if in fact he felt or is implying in any way that Mrs. Brick or Mr. Hopcroft was lying to this committee, was silent for two days and that it is only now that he has been the first official spokesman from the Liberal government on the issue of this apparent misrepresentation or, at best, conflict in the versions of the stories.

What is at stake here is the fundamental issue of the openness of this committee, and perhaps even the predetermination of the Solicitor General of this province. If we are about to go and proceed around this province and admit to people that we have some flexibility and freedom to report, then I think the minister should be here to clarify that. In the light of the revelations presented by the Coalition Against Open Sunday Shopping and the secret Liberal document, I believe that in fact Mr. Philip's terms of reference should be expanded to include—

Mr. Chairman: Let's—

Mr. Jackson: No, I am speaking to the motion by indicating I feel it should go further. I believe that in purely political terms the minister should invite the opportunity to clear up this matter. It is taking an inordinate amount of this committee's time and attention. We should get back on track, and the sooner the matter can be clarified the better. It will not be clarified by the Liberal Party members of this committee entrenching with a position that they do not feel it is necessary. Let's clear the air, let's get it behind us and let's get on with the hearing process.

Mr. Chairman: All right. Are there any other members—

Miss Roberts: May I just have—

Mr. Philip: May I make my summation?

Mr. Chairman: Mr. Philip, in fairness, I am going to go to the government caucus and entertain a reply from it. I think after that, unless there is some point of clarification, we have spent some half hour now almost on this particular issue—

Mr. Philip: As the mover of the motion, as is the tradition, I want my 30-second summation.

Mr. Chairman: You will get your opportunity, as mover of the motion, to reply.

Miss Roberts: I just want you to know that I also am concerned. I very much feel your concern, Mr. Jackson. Cynical, frustrated and angry is what I am. You are wasting time right now looking at something where there are many contradictions between many statements that have been made. I have noted people have not even heard some of the comments and have asked questions, not hearing what is going on. This is a concern we all have. We are here. This is

the period of time for us to listen to the public. If we want to put the minister on the stand, and because we are putting her on the stand, we can go through each one of these and say, "This is what you said. Does that mean that? Does that mean this?" You know, one way or the other.

Let's listen to the public for a while. Let's hear what they have to say. The people who came with CAOSS were excellent. They have good ideas. They have concerns. I am concerned in hearing it. Why are we sitting here saying, "Come back and talk to us"? We are here to listen to the public. Let's do it now. We have certain times, we have clause-by-clause, we have a lot to do. Let's get up and do it.

Mr. Chairman: Mr. Philip, I am going to allow you to reply, and then we are going to call—

Mr. Philip: I am sorry Miss Roberts feels this is a waste of time, because I feel that if you look at the major—

Miss Roberts: I am not—I am sorry. Go ahead.

Mr. Philip: If you look at a lot of the major briefs that have been placed before us, the issue is whether or not the present act is flawed, as the minister says, and I have not heard one group that did not say the present act was not flawed. If the present act is flawed, where are the flaws? Most of the groups have said, "Yes, there are or there may be some problems with the tourist option."

The tourist exemption is the basis on which the minister has justified this set of legislation. Therefore, the logical question that any of us has to ask is: Before you brought in the new legislation, did you try to seek help from those groups in the best position to give that help to correct what you see as the problem in the old bill?

That is why I was so concerned, and Mrs. Cunningham was so concerned, about what consultation the minister had, not just after the bill was introduced but before the bill was introduced to see whether the tourist problem could be changed so that we would not have to have a bill which is as divisive as this one.

In fact, the minister said that the Association of Municipalities of Ontario had proven to be unco-operative on that. On the other hand, they have said: "On no fewer than three occasions did we offer help. Furthermore, on several other occasions we asked for more information and the minister did not supply it."

It seems to me that, unlike what Mr. Kanter has been arguing, that somehow my motion will hamper the business of this committee, my motion specifically said that perhaps, notwithstanding the fact that all of us as MPPs are working very hard on this committee, we should come in early one morning and meet with the minister to clarify what is an essential issue. My motion specifically states that we would schedule it at a time when deputations already scheduled would not be scheduled for an appearance.

I guess one has to ask the essential question here: If there is a problem, as we are alleging, if the minister's version of the truth is quite different from AMO's version of the truth, why would the Liberal members of this committee not want to give the minister an opportunity to answer? One can only assume that if they do not want to give the minister an opportunity to

answer, they are probably afraid of her being questioned for one hour on these very strange contradictions in her testimony.

Mr. Kanter: On a point of order, Mr. Chairman.

Mr. Chairman: No. We will have the minister back here—

Mr. Kanter: Imputing motives of members, I believe, is not permitted.

Mr. Chairman: —when we have clause by clause. Still, I am going to call the question. We have had half an hour on this issue. Mr. Jackson seemed to think we could dispose of both motions in half an hour; I have had some difficulty with that. Anyway, I am going to call the question.

Mr. Philip: May we have a recorded vote, Mr. Chairman?

Mr. Chairman: A recorded vote has been asked for. You have the motion before you in writing.

The committee divided on Mr. Philip's motion, which was negatived on the following vote:

Ayes

Hampton, Jackson, Philip.

Nays

Chiarelli, Epp, Kanter, Pelissero, Roberts, Sola.

Ayes 3; nays 6.

Mr. Chairman: We will move on to Mr. Jackson's motion, which has been read to you. Mr. Jackson, as mover of the motion, do you wish to speak to it?

Mr. Jackson: Yes. I would like to clarify certain matters. At the outset, I want to indicate that this motion comes out of the very first brief which was presented to this committee on Monday, August 8, by the Canadian Retail Hardware Association, when we heard from a retailer from New Brunswick, who provided this committee with some interesting insights about the whole matter of retail shopping legislation in New Brunswick.

Subsequent to Monday, I have been researching information in order to put into this motion a suggested framework to assist this committee in its deliberations. In particular, it should be noted that in 1985 New Brunswick had a law similar to the one the Liberal government is proposing in Bill 113. That law has been in place for three years. They have found it unmanageable and unworkable and, in fact, are conducting public hearings in Fredericton in the week of October 2 to 5. This is new information, which I was able to uncover.

1300

Incidentally, as an aside, I have furnished members of this committee with a copy of that legislation and the notices that went out in the newspapers from the New Brunswick Legislature. That legislation indicates, in fact, that they are leaving a municipal option and recommending a tourist

exemption re-examination with an independent board, which would help advise municipalities and clarify the distinction of tourist designation for increasing access to shopping in New Brunswick, but in effect we have a Liberal government with no opposition, specifically saying, "The wide-open Sunday shopping municipal option is not working, and we would like to have public hearings and move in the direction that many of the deputants have been indicating to us." Therefore, I have put forward in this motion a request that we seek consideration from the three House leaders that this committee, of which I am not a member—I am substituting, and I wish the committee well if it does go to Fredericton—

Mr. Chairman: You are here pretty frequently for a substitute.

Miss Roberts: So am I a substitute; you and I go.

Mr. Chairman: Go ahead, Mr. Jackson.

Mr. Jackson: I do believe that it would be more helpful and more valuable in terms of the use of the legislative funds and in terms of the use of the time of members of this House if, instead of going to New Brunswick to study the effects of an opposition-free legislation or a one-party government, which is what the committee is studying in New Brunswick, we would be getting more value and doing this province a greater service if we examined the fundamental question which has occurred here.

I have recommended in my motion that we replace, and we recommend replacing the activities of the standing committee on the Legislative Assembly with ours. I would hope that this amendment could be a consensus amendment and would move forward and even look at a range of considerations and that there be some committee members from this committee, even one representative from each party on this committee, join the standing committee on the Legislative Assembly.

I see a whole series of opportunities here, but I do not want to focus on the issue of replacing the committee as much as I want to ensure that we have access to the kinds of public hearings on a three-year-old experiential examination of the very bill that we have in front of us, especially when a Liberal government is saying we should be getting out of it.

I am open to suggestions and therefore would leave it to your discretion, with the House leaders, to reach some form of a consensus so that some or all of the justice committee can go to New Brunswick. It is possible that both committees could revise the total numbers of people going, but in some fashion get members of this committee to go to see these public deputations.

I do not wish to upset the committee business of this House, but clearly, as I have indicated in my motion, by order of the House dated June 29, the whips and the House leaders have the power to amend the schedule of summer committee sittings. They could, in fact, say that half of this justice committee go to New Brunswick and half of the standing committee on the Legislative Assembly go to the New Brunswick Legislature. I believe it would be an opportunity that this committee should experience. It could form part of our commitment to proceed with this legislation in an open fashion, that in fact we are committed to at least receive all of the necessary information for us to make a final vote, and I think to deny that would be an indication that we have a predetermined track and that we have a predetermined timetable in which we are under pressure to perform.

I do know that this committee was planning to do clause-by-clause during that week, Mr. Chairman, and that is a function of finishing our work and reporting to the House, but you and I both, having been here for over three and a half years, are quite familiar with the fact it is not uncommon for a committee to pierce the time frame of its mandate if in its wisdom and its judgement it feels it can present a much better report, a more complete report and a more representative report by taking additional time. That is the basis of my appeal, that is the basis of my request and that is why I have included so much information for the members of the committee, for their consideration.

I have not highlighted the statements made by the Premier (Mr. Peterson). They are included there to remind members of the Premier's questioning, value-for-money approach to this committee travel. I do not wish to comment on that; I have only drawn attention to the Premier's comments on this matter and would hope that all members of this committee would be willing to receive that information in New Brunswick or through several members of this committee going to New Brunswick and reporting back.

Mr. Chairman: Thank you, Mr. Jackson. Mr. Epp.

Mr. Kanter: I will be speaking, and Mr. Epp will also be speaking.

We will not be supporting this motion for three reasons. First, in my view, it is not the best use of the time of this committee, and the time of this committee is being very severely taxed. It is my understanding that there is now a substantial waiting list of members of the public who wish to speak to this committee on this bill, particularly in the Toronto area. I understand we are full or close to full in some of the 13 municipalities we are going to be visiting as well.

We do have a fairly tight time frame, established by agreement of the party House leaders. I think we should make every effort to meet that time frame and to do it in the context of speaking to, listening to and analysing the views of the people of Ontario. That is our primary responsibility. This committee is going to have a challenge to do that in eight weeks in Ontario. It seems to me extremely unlikely that we could get a full view of the range of views, a reasonable expression of the range of views in New Brunswick by being there for two or three working days.

The second reason I will not be supporting this motion is because I do not believe that visiting New Brunswick alone would give this committee a balanced view of what is happening in other jurisdictions. We have heard evidence, and I take it from other deputants who are scheduled to speak before our committee we will be other evidence about other jurisdictions. We have heard evidence about Massachusetts and Sweden. We may hear evidence about British Columbia.

Reference has been made to Saskatchewan where a government—it happens to be of the Conservative persuasion—is introducing legislation very similar to that of Ontario, and I think one could argue that we should go to Saskatchewan to find out why the government is moving from its system, which keeps stores closed, to a system which will permit municipalities to opt out of that Sunday closing framework in a manner very similar to the government of Ontario.

If we go to one, we should go to the other. Perhaps we should go to three. Personally, I would like to go to Sweden. I think that would be a very desirable way to spend my summer. I do not think it would be responsible.

The third and final reason that I will not be supporting this motion relates to my view that this committee ought not to be impinging on the activities of other committees, particularly in this case the standing committee on the Legislative Assembly. My colleague Mr. Epp will be speaking further to this particular point.

Mr. Chairman: Mr. Epp, if you would like to address that you may, but I am going to move on to Mr. Philip first. Then you can address that and then we will come back to Mr. Jackson for a wrapup. Otherwise, you are going to be here for the first delegation at two o'clock without any lunch.

Mr. Philip: I like much more what Mr. Jackson said than perhaps some of the information contained in the motion. We will be moving amendments to the motion which will delete large sections of that motion but keep the original intent of Mr. Jackson.

Let me just say it seems to me that just as the document I tabled earlier, which will soon become a public document, which contains marching instructions to the Liberals, gives centralist direction that they must do certain things and act in a certain way in this committee, I am convinced, having talked to some of the Liberal members, that there is a direction that this committee, unlike other committees, may not travel to find out what is really happening.

If we travel to British Columbia, we will find out that the minister was absolutely wrong when she said the domino theory did not in fact operate. If we travel to New Brunswick, we will find out that the municipal option route which was taken by the government is now being reversed by the present Liberal government. So we have the democratic centralism, as Joe Stalin used to call it, of the Liberal Party dictating that no matter what happens, this committee is not going to go and look at those very jurisdictions where we could experience something.

1310

This motion causes some problems for me, and that is why we are moving the deletion of certain sections.

In the last few months, I have delivered several papers to various groups, including the Canadian financial managers. I will be delivering another one to the Canadian Comprehensive Auditing Foundation and I have just given one in Nova Scotia, in the Legislative Assembly, to a convention of public accounts MLAs, MPPs and MPs.

The basic thrust of it is that I think society is becoming so complicated that we have to adopt some of the American committee system. Part of the principle of that has to be that committees have the right to look at things without central direction and come to their conclusions on complicated issues.

The problem I have with the first part of Mr. Jackson's motion is that this committee is instructing a central body to overrule a decision that was made in another committee.

The Legislative Assembly committee has come up with some very, very good papers over the years, including a recent one that would have a massive reform on the estimates system and, I think, save taxpayers millions of dollars. I was not on the committee when it made a decision to travel somewhere for

whatever purpose, but I do not feel I can put myself in the position of being its judge and jury without even hearing from it, and dictating to that committee about whether it should or should not.

If I were on the committee, I could do that. I might argue that it is a good use of the taxpayers' money to go to New Brunswick or I might argue that it is not, but I do not think that I should interfere in the decisions made by that chairman and his committee.

Therefore, I think that the problem should be hit straight on. If this committee feels we have evidence that going to New Brunswick is a good idea, that going to British Columbia is a good idea, then we should go; and if it means delaying the legislation until we have gone, that is fine, let's do that. But let's not tell some other committee what to do or, worse still, tell the House leaders to come down, as Big Daddy, and direct another committee what to do.

We will therefore be moving a motion that the words after—

Mr. Chairman: You have an amendment, I trust.

Mr. Philip: This is an amendment.

Mr. Chairman: You said you were moving a motion. You are moving an amendment to Mr. Jackson's motion. Do you have that in writing?

Mr. Philip: No, I do not, but it is very easy, because you just see a lot of red scratch marks through everything I want to cross out.

Mr. Jackson: I have an actual amendment. Perhaps if Mr. Philip would let me amend my original motion, I have it all written out for you.

Mr. Philip: OK.

Mr. Epp: Am I going to get an opportunity to speak to this motion as it is, rather than have all kinds of amendments?

Mr. Chairman: Yes, I think that is fair, before you move an amendment. I had forgotten about you, Mr. Epp. I am sorry. You may speak to the motion, as unamended.

Mr. Philip: I will withdraw my amendment until Mr. Epp speaks.

Mr. Epp: I am really surprised this morning, somewhat incensed, by what has been suggested here. First of all, I am somewhat confused and I do not think I am the only one.

I have a motion before me which says that—and I want to read it so everybody knows what we have, how the motion was originally put. I am sure Mr. Jackson did not just all of a sudden think of this. He discussed it with his leader and discussed it with his colleagues. He took marching orders from them to bring these things in, so we want to make sure that everybody understands what is before us.

What is before us is: "We therefore request that you use this power to cancel the Legislative Assembly committee's trip to Fredericton, and substitute instead a trip by the committee on administration of justice to attend New Brunswick's public hearings into Bill 60." That is what is before

us; that was the motion. I guess there has been some change of heart since, but that is the motion that is before us.

I want to speak on a number of things here. First of all, Mr. Jackson knows the procedure. He has been here long enough and he knows a request went from the Legislative Assembly committee to the Board of Internal Economy. The Legislative Assembly committee has two of his own colleagues on it, Mr. Sterling and Jack Johnson, and both those members supported the particular fact-finding trip to New Brunswick, so he had an opportunity beforehand to voice his views to those members, and they supported the trip by the standing committee on the Legislative Assembly. It was not that he was uninformed about the committee going.

Second, if he were opposed to the trip, they should have told us. They were not, and he was not. What he is asking here is for this committee to go to the three House leaders to ask them to overrule the Legislative Assembly of Ontario. The Legislative Assembly of Ontario gave permission for this committee to go to New Brunswick. What he is asking us now, as members of this committee, is to ask the House leaders, three members of the Legislative Assembly of Ontario, to overrule a decision made by 130 members.

I find that insulting in the least, as far as democracy is concerned. We are going to ask three people to overrule 130 people. Being a democratically elected member of this Legislature, I find that insulting and I want no part of it. I am a member of the Legislative Assembly committee; I am the chairman of that committee. I find the precedent—I have never heard such rubbish in my life. I do not think this would happen even in the Soviet Union, let alone in Ontario and Canada. Yet we are being asked by an elected person of this Legislature to do exactly that.

I urge all members of this committee to vote against this motion. I find it insulting. I find it embarrassing to even have to vote on something of this nature but I will vote against it.

Mr. Chairman: All right. We have now all had an opportunity. I am going to give Mr. Jackson, if he wishes—although if the matter has been amended by Mr. Philip, one would hope we could address the amendment and get on with the—is it your amendment, Mr. Jackson?

Mr. Jackson: Two things, Mr. Chairman. I would like to amend my motion. I apologize if I have offended Mr. Epp. My motivation was similar to that of his leader, the Premier, who expressed somewhat the sentiments I have when he indicated in the Toronto Sun that maybe these trips have no utility. He said there was a review.

I too was amazed, knowing the procedure and knowing that the Premier has been in this House a lot longer than I have. He knows how the process works and that approvals are made by the House leaders. He has a majority. He approved the committee's trip to Reno which is being discussed. He approved the trip to Fredericton. Yet he is quoted in the Toronto Sun, and I do not know if this is another example of a flip-flop, but he has indicated—

Mr. Epp: Mr. Chairman, on a point of order.

Mr. Jackson: You have impugned my motivation, and I—

Mr. Chairman: There is a point of order.

Mr. Epp: Mr. Jackson has no evidence that the Premier approved them—and why he would state something of that nature—he is implying that the Premier personally approved these trips and he has no evidence of that. If he does, he should file it with the committee.

Mr. Chairman: I think that is a valid point of order, Mr. Jackson. The rules specifically indicate that we cannot relate to any member of the Legislature, be he Premier or not, a motive that is improper. I am asking you to withdraw that. I am ruling that the objection is valid.

Mr. Jackson: Why don't you ask Mr. Epp to withdraw his impugning of my motive for raising the motion in the first place? I was drawing a parallel. I have done nothing more than the Premier of this province in terms of questioning the activities of the committee, if that is what he chooses to raise.

Mr. Chairman: I am asking you to withdraw what I heard. Mind you, I was talking with the clerk at the time, but my understanding is that you indicated that the Premier approved the authorization of these trips. You know as well as I know that it is the Board of Internal Economy which does that.

Mr. Jackson: The Premier, as the head of the government, which has the majority vote on that committee, that had to approve through cabinet, of which the Premier is the chair—this is customarily accepted: that a committee with government authority would have, by its approval through cabinet, tacit approval by the Premier. Do you reject that notion?

Mr. Chairman: That is not the way I thought it was put. As I say, I want to see—

Mr. Jackson: Well, if you would like me to withdraw whatever.

Mr. Chairman: Are you withdrawing it? All right, fine.

1320

Mr. Jackson: Whatever you would like me to withdraw, Mr. Chairman, I have withdrawn that.

My second point is that if Mr. Epp is familiar with parliamentary procedure, he will know that the House leaders have been given the powers by the Legislative Assembly. We have given up our powers to those three individuals who then have the power to amend the summer sitting schedule. That is what we did. I am surprised that Mr. Epp, who has far more experience in this House than I do, would be unfamiliar with that. He is also the chairman of the Legislative Assembly committee.

Now, having addressed Mr. Epp's comments, I would like now to move to the point. I would like to amend the motion by deleting points 1, 2, 3, 4 and 8. I also wish to delete the words "cancel the Legislative Assembly committee's trip to Fredericton, and substitute instead" and insert the word "authorize".

Mr. Chairman: Where is the word "authorize" going?

Mr. Jackson: Where I deleted. It would state then, "We therefore request that you use this power to authorize a trip by the committee on administration of justice to attend the New Brunswick's public hearings into

Bill 60." That would be my amended motion, which I believe has the approval of all opposition members.

Mr. Chairman: I am going to, just for clarification purposes, read into the record what the amendment is so we are all clear about what we are voting on.

Mr. Jackson moves that the committee transmit the following message to the three party House leaders and the three party whips:

"Given the following considerations:

"1. From October 5 to October 6 New Brunswick's standing committee on law amendments is scheduled to hold public hearings on Bill 60, An Act to amend the Days of Rest Act;

"2. The said Bill 60 will abolish that province's municipal option on Sunday store openings and replace it with a tourist exemption;

"3. The experience of New Brunswick can inform and guide Ontario as it considers Bills 113 and 114; and

"4. By order of the House dated June 29 the whips and House leaders have the power to amend the schedule of summer committee sittings:

"We therefore request that you use this power to authorize a trip by the committee on the administration of justice or selected members thereof to attend New Brunswick's public hearings into Bill 60.

"And that the clerk of the committee be charged with the responsibility of delivering this message to the House leaders and whips."

It has now been read. Is that accurate, Mr. Jackson? I would like to find out from Mr. Philip—I hope he heard the amendment. Since you originally proposed the amendment, you have withdrawn your amendment.

Mr. Philip: I am sorry. I was outside taking advantage of a media opportunity.

Mr. Chairman: I appreciate that, but I want to be certain—

Mr. Jackson: It is self-explanatory.

Mr. Chairman: All right, fine. Do any other members, in light of the hour, wish to address the amendment? If not, I intend to call the question on the amendment.

Mr. Jackson: Recorded vote.

Mr. Pelissero: Just on a point of information, through you to Mr. Jackson, if any of your package has been released to the media, I hope you will ensure that an amended motion put forward by Mr. Jackson will again be circulated, because in fact it does call into being some serious questions in terms of another committee of this legislation.

Mr. Chairman: It would seem to me that if an amendment has been withdrawn, it is not before this committee and therefore should not be issued under the aegis of this committee, and if you issue it you are issuing it on your own.

Mr. Jackson: Good suggestion. I like that.

Mr. Chairman: All right. Any further comments? You want a recorded vote? All right.

The committee divided on Mr. Jackson's amendment, which was negatived on the following vote:

Ayes

Hampton, Jackson, Philip.

Nays

Epp, Kanter, Pelissero, Roberts, Sola, Chiarelli.

Ayes 3; nays 6.

Mr. Chairman: We are now going to move to the main motion. Shall the main motion, as unamended and proposed by Mr. Jackson initially, carry? Do you wish a recorded vote as well?

Mr. Philip: No.

Mr. Jackson: No.

Mr. Chairman: You do not wish a recorded vote?

Mr. Jackson: Well, put one on. It does not matter to me. Everybody is here.

Mr. Chairman: Those in favour? Those opposed?

Motion negatived.

Mr. Chairman: There is one item—

Mr. Philip: I was only voting for the principle.

Mr. Chairman: All right. There is one item that we have to deal with, and it may be superfluous at this point. The group that is appearing before us at two o'clock, the Hudson's Bay Co., had a rather extensive brief. They left it with us to be provided to the members so they could read it over the extensive lunch break, so you had better take it with you and try not to get ketchup on it or whatever. Are there any other items?

Clerk of the Committee: You are aware that we are hearing from the Ministry of Labour at 1:30 p.m., four minutes from now?

Mr. Kanter: Is it possible to bring sandwiches back and eat in this room?

Mr. Chairman: I see something being brought in but I am not sure what it is.

Mr. Pelissero: It is just coffee, Mr. Chairman.

Mr. Philip: That will take more time. Why don't we just have the

Ministry of Labour come in later after the other hearings?

Mr. Kanter: That is OK with us. It was not OK with the Conservative Party.

Mr. Chairman: Yes, the Conservative Party; that is right. They informed us that they would not have a member here in the afternoon.

Mr. Kanter: Mr. Chairman, may I make a suggestion that might work in this case? The Labour Council of Metropolitan Toronto is down as a deputant at 4 p.m. I would not be surprised if they raised some of these concerns. Perhaps we could have the Ministry of Labour officials at the front of the room at that time, and perhaps they could not be part of that deputation but could respond to some of those concerns at that time. Would that be a possibility?

Mr. Chairman: No, Mr. Kanter, I think that would become unworkable.

Mr. Kanter: Just trying to be helpful, Mr. Chairman.

Mr. Chairman: All right. The clerk indicates that at this late point we cannot order lunch in. Had I thought that the two motions would go in the half hour as suggested, I would have ordered it up. Perhaps we will adjourn for 10 minutes to allow each and every one of us to get what he can, and we will reconvene at 1:40 p.m. with the Ministry of Labour.

The committee recessed at 1:28 p.m.

CA204
X5 14
-578

J-28b

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT

THURSDAY, AUGUST 11, 1988

Afternoon Sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Philip, Ed (Etobicoke-Rexdale NDP)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

Epp, Herbert A. (Waterloo North L) for Mr. Keyes

Jackson, Cameron (Burlington South PC) for Mr. Cureatz

Pelissero, Harry E. (Lincoln L) for Ms. Poole

Roberts, Marietta L. D. (Elgin L) for Ms. Hart

Clerk: Deller, Deborah

Staff:

Swift, Susan, Research Officer, Legislative Research Service

Witnesses:

From the Ministry of the Solicitor General:

Spring, David, Director, Legal Branch

From the Ministry of Labour:

Sadlier-Brown, Peter, Assistant Deputy Minister, Labour Policy and Programs

Dutton, Penny, Director, Employment Standards Branch

From the Hudson's Bay Co.:

Agnew, J. Barry, Vice-President, Sales Promotion

From the Retail Merchants Association of Canada (Ontario) Inc.:

Boam, Harry, Director; Oakville Appliance Centre

Domino, Leonard

From the Canadian Federation of Independent Grocers:

Wilshaw, Tony G., President

Donaldson, John, Chairman, Ontario Provincial Committee: Lori-Jo Ltd.

From the Metropolitan Toronto Convention and Visitors Association:

Duron, William, President

From the Labour Council of Metropolitan Toronto:

Torney, Linda, President

Sutherland, Ross, Executive Assistant

AFTERNOON SITTING

The committee resumed at 1:45 p.m. in room 151.

Mr. Chairman: We will proceed with members from the Ministry of Labour who have a presentation for us, which I understand will take about 20 minutes, more or less.

Mr. Sadlier-Brown: Or less.

Mr. Chairman: If you would like to proceed then, identify yourself for Hansard.

Mr. Sadlier-Brown: I am Peter Sadlier-Brown. I am the assistant deputy ministry in the Ministry of Labour for policy and programs. I am responsible for the employment standards branch. Penny Dutton on my left is the director of the employment standards branch. She has been before the committee already.

We are here because I understand the committee wanted some information from the Ministry of Labour on the approach the ministry would take to the processing of claims that might arise under Bill 114. As well, we understand there is some confusion over the time the employment standards branch normally takes to deal with cases. In particular, there have been a number of references to four to six months' delays as the norm.

The members of the committee should see from a short document that it is to be circulated, or has been circulated, that this is not the case. In the most recent period, which is shown in table 1 of that document, the average case from the date the claim is received to the date the file is closed, takes 65 days. This average covers the whole range of employment standards branch cases from the simple to the most complicated.

You will also note that almost two thirds of the claims were dealt with within 60 days. We anticipate the cases that may arise from Bill 114 will fall well below that average. Referring again to table 1, it shows that during the 65-day average period, the file was in the hands of an officer for an average of 40 days. Again, that is an average and includes the whole range of employment standards branch cases.

Our plan, through central administration of Bill 114 cases, is to have the officer stage of the process dealt with within 30 days. Bill 114 claims will not require detailed audits or payroll records leading to complicated assessments, nor will they involve complex questions of legal interpretation, for example, eligibility for severance pay. Generally, this first period will involve a straightforward fact-finding and then a mediation process.

In the few cases where the mediation efforts might not succeed, the case would move to the next stage, which is a hearing before a referee. I should point out that referees are not employees of the Ministry of Labour. They are private labour practitioners who are selected on a case-by-case basis from a panel. At the moment, there are 47 referees on this panel. That is up from 43 last year. Should it be necessary, that number could be increased, but we do not expect it will be necessary.

Table 2 in that document shows the status of referee hearings under the Employment Standards Act. Those are the hearings that occur under sections 50 and 51 now. In the 1987-88 period, there were 173 completions—cases that went to referees. They were completed either as a result of a referee's decision, and you can see the number there, or a settlement that had occurred before the hearing took place.

This referee process will be expedited too for Bill 114 cases. Cases will be given a priority in assigning referees. The settlement efforts that normally occur after the appointment of a referee will have occurred before in these cases because the officer will be mediating.

Referees will be asked to set hearing dates within one month. As well, these cases are unlikely to give rise to the kinds of technical and legal questions that occur under some of the other matters that the referees deal with under the Employment Standards Act. In sum, we think the process can be dealt with quite expeditiously.

If there are any questions that anybody has about this, we will be happy to deal with them.

1350

Mr. Sola: You say 78 per cent of your cases get closed within 90 days. How long can the 22 per cent left over last?

Mr. Sadlier-Brown: They can last quite a long time in the worst case.

Mr. Sola: What is the worst case scenario so far?

Mr. Sadlier-Brown: I think we have to keep in mind that we are not talking apples and apples. There are really quite dramatically different situations. There can be cases that involve mass layoffs, where there can be dozens of very complicated legal issues related to pensions and related to severance entitlement on termination, and they will involve hundreds, perhaps even thousands of people. I think in the very worst case something could last a year, a year and a half or maybe even longer, but that is far from the norm and those are complicated cases.

Mr. Sola: With the majority of these 22 per cent that last more than 90 days, how much longer would they last? You are saying the worst case scenario is one year. Would it be another month or would it be—

Ms. Dutton: In fact, 180 days is where we do our next cut on the statistics. In terms of internal recordkeeping, that would be our next cut point on it.

Mr. Sola: You said there would not be very many legal definitions under Bill 114; yet we have had a lot of questions raised about how to define "reasonable" and "unreasonable." How would your officers find the definition for that? Would they find it simple or would that be a difficult definition to come at?

Mr. Sadlier-Brown: The interpretation of "reasonable" under Bill 114 is left to a referee. The officer attempts to mediate a resolution in the process, but reasonableness tests are very common in labour law. We did a count of references to reasonableness in various labour legislation in Canada; I think there are something like 47 sections of labour law in various

jurisdictions where there is a reasonableness test. It also is something which occurs in arbitral law. It is not an uncommon thing at all. I do not think the referees, who are practitioners, will have difficulty at all applying reasonableness tests, especially with the guidance the statute provides.

Mr. Chairman: Mr. Sola, I think we'll have to end it there. I would like to get on at two o'clock with the presentations. Mr. Jackson.

Mr. Jackson: I see you have indicated in your statistics for the entire ministry that April through June is when you have a little more success than you do on average for the year. Is there a reason for that?

Ms. Dutton: Maybe April and June this year are the beginning of a trend—I hope that is the case—of bringing down our cycle days. We are certainly trying to do that.

Mr. Jackson: That is sufficient. You can read it either way. Is it closer to 30 per cent or closer to 20 per cent? I am nervous about statistics which glean a grouping of months.

Ms. Dutton: That is why we have put the previous fiscal year's in.

Mr. Jackson: The second question has to do with your experience with sections 50 and 51, which really are dealing with people who are violating the current law. Is that not correct?

Ms. Dutton: Section 50 is employer appeals where we have issued an order to pay—where an officer has established a violation and issued an order to pay—but the employer has an appeal as of right, subject to time limits. Section 51 is where an officer has reported to me that there may have been a violation of the act or a scheme to defeat the intent and purpose of the act. These are usually large cases of some considerable legal and other complexity.

Mr. Jackson: You refer to cases that will be assigned on a priority. Can you expand on that? How do you physically manage to suggest that certain sections of the act may have more priority in terms of dealing with them than others? How do you determine that?

Ms. Dutton: In terms of the internal procedures here, first, these are cases where we may have issues with people's reinstatement rights, termination issues, and so those tend to be looked at on a priority basis in any event. I think there is a need in this area to move quickly. It is with that in mind that we have established the internal time line. The act activates a claim to the director, so the case assignment will be done centrally. There is an internal target date that my office will assign to the claim within one week and then the cycle of days for the officer to whom it is assigned to try to effect a settlement will be 30 calendar days.

Mr. Jackson: I do not want to oversimplify this, but I want to get in context the fact that the effect of Bill 114 is to introduce a series of additional case loads for the ministry to deal with. We have heard from the ministry that there will be no additional staff, though we now know that there will be additional costs, should the referee or adjudicating processes be required for a greater number of cases. Since you contract those out to independents, your cost to contract out may increase, but your cost of administering it within the civil service we hope will remain the same. That now is more in context for me.

The second thing I wanted to put in context is the notion of the speed at which we are going to deal with these labour issues relative to other labour issues. What you are saying to me is, depending upon the nature of the grievance, whether it resulted in saying, "We have now reached an agreement that an employee can go home, but I am not paying him for that"—their pay is docked or whatever—that is less serious than someone one who got fired on the spot for not working on a Sunday because he disagreed.

Is that the basis on which you set a priority in terms of which case you will deal with first? I am not getting a strong sense of how you are administering the differences. Some other cases may be put off as a result of this legislation, if you are now blending in a whole series of additional labour objections.

Ms. Dutton: I think it goes to something that is perhaps hypothetical at this time. The minister has stated that he does not anticipate a heavy case load as a result of this. If the anticipation that employers and employees will work out co-operative arrangements is correct, then the impact on ongoing workload should be able to be handled without creating the sort of streaming effects that you are concerned about. That is all I can really say on that.

Mr. Jackson: Is there any jurisdiction in Canada where you were able to compare that statement? Was the mediated effect more predominant or the refereeing or arbitrating effect more the course of action in other jurisdictions? I know there is a certain newness to this legislation. Therefore, I would like to know what happened in other jurisdictions with respect to the labour response element of it.

Mr. Sadlier-Brown: Can I just go back to the first part of your question? There is a general approach to case management that occurs here, and what you do in general—not specifically related to Bill 114 cases—is that cases that require expeditious resolution are given priority. The nature of Bill 114 cases is that they will require an expeditious resolution because, if too much time passes, the right that Bill 114 gives an individual becomes meaningless. All of the standards that have an immediate impact are, in general, in the case of management procedure, given a higher priority. Bill 114 cases are in that category.

In terms of your other question, there are not jurisdictions that have similar labour law, but if you look at the statistics here, in terms of how many go to referees, of 11,310 investigations with violations found in 1987-88, 165 went to referees. That, again, is across the entire range of employment standard cases.

Mr. Jackson: My final question, and since I did request this group, I am sorry, but it flows from—

Mr. Kanter: Actually, I thought I had, and you agreed with me on this.

Mr. Jackson: I will go right to a question. I have asked if Bill 114 contain within it a clarification with respect to a disagreement between an employer and an employee where there is a grievance, a complaint, a filing to your ministry.

The Ontario Federation of Labour indicated yesterday that it felt the legislation should address the issue; that employees should not lose their jobs; that they should be absent for those days but not necessarily lose their pay or necessarily be suspended as a result; that the law specifically be written in a way that it would allow them to continue employment. Is that the proper interpretation, that the law is silent as it sits before us on the issue of what happens to an employee during the period of dispute?

1400

Mr. Sadlier-Brown: That is a matter the referee will determine, if there is a dispute about that, in the course of the resolution of the case. If the employee were suspended, it would be up to the referee to order back pay and reparation, if that were the appropriate resolution.

Mr. Jackson: I handled that question poorly. Perhaps I can quote directly from the brief, now that I have found it.

Mr. Chairman: Maybe while you are finding that, I could inquire whether there are going to be any questions from the official opposition.

Mr. Hampton: Yes, three or four.

Mr. Jackson: Then I will yield and come back to this, in the interests of time.

Mr. Hampton: With the consideration of the committee, I may ask a question that has already been asked. If I do, just say it has been. As I understand what you have laid before us, these statistics deal with where someone from your branch was able to settle a case. Is that correct? In other words, a complaint is received, and within 60 days you are able to settle 64 per cent of them in 1988.

Mr. Chairman: That was in fact dealt with.

Mr. Hampton: You settled 78 per cent of them within 90 days. Do the other 22 per cent then go on to a hearing, to a referee, generally?

Ms. Dutton: No, I do not think one can say that. The other 22 per cent may end up being settled within a longer time period. They may go on to a hearing.

Mr. Hampton: How many go on to a referee? What percentage?

Ms. Dutton: The referee hearing last year, I guess—what is 173 as a proportion of 11,000? Whatever that proportion is. It is a very small proportion.

Mr. Hampton: How long does it generally take for a case that goes on to a hearing to be resolved?

Ms. Dutton: From start date until completion? The statistics here indicate the issues on scheduling of the hearing. When you have the hearing, the average hearing dates, as I recall, take one point something. There are cases where more than one hearing date will be required.

Mr. Hampton: How long before you get a decision from the referee?

Ms. Dutton: It varies, depending on the case. It may be two months,

and in some of the more complex cases it may be longer than that. That is in the referee's scope then.

Mr. Hampton: If 22 per cent of the cases are still left unresolved after 90 days, approaching one quarter of the cases are still left unresolved, and you have said these cases should be dealt with quickly if the right is to be meaningful, is that not a serious injury to the right if 90 days down the road there is still no decision?

Mr. Sadlier-Brown: What I think you did miss in my opening remarks was a distinction that is very important to keep in mind. Those numbers you are looking at cover the entire range of employment standards cases, and some of them can be exceedingly complicated.

Mr. Hampton: I understand that.

Mr. Sadlier-Brown: It is, as you would expect, the ones that are complicated that end up running beyond the time period, where people disappear, where in some cases the complainant leaves the country. That kind of thing happens and the numbers are affected by that.

These cases are much towards the simpler end of what the process would have to deal with. We have no expectation at all that they would be in the category of cases that run beyond the 90 days. They are quite straightforward cases, and I do not think the average for all employment standards cases is a good guide to how the performance will be in these cases, nor is it appropriate to apply those numbers to this kind of case at all.

Mr. Hampton: With all due respect, we just heard from an organization this morning which said that in some ways the religious aspect and the recognition of freedom of religion and the way it impacts on this bill may be very complicated. We have heard from other groups and a lot of employers' groups who said, without referring specifically to section 39i, that it will be very difficult to determine when an employer is or is not using some type of persuasion or coercion on employees to get them to work Sundays. We have had groups say to us that there are a number of ways of getting around this. When I am faced with evidence like that from them, I have difficulty when you say these cases will be quite simple.

Mr. Chairman: Mr. Hampton, I think you are misinterpreting. What I heard was that the religious question dealt with the question of designating the partnership and being able to stay open on a day other than—that was the issue.

Mr. Hampton: I understand that but I also understand from some of this and from some of the conversations we have had—for example, the Ontario Labour Relations Board has great difficulty in dealing with the question of religion. Their cases have gone to the Supreme Court on that in terms of employee dissent.

Mr. Chairman: I do not want to string out the item. We want to get on with the hearings.

Mr. Hampton: I say to you that we have heard that from these groups, church groups, religious groups, employers' groups, who have said that they consider it is going to be difficult to make these kinds of determinations. It is going to be very difficult. An employer who feels he is under economic pressure to open on Sundays can think of various ways to put pressure on his

employees to work on Sundays. If the employees do not work on Sundays, there are means, such as no promotion, no wage increase and not as many hours as you might reasonably expect or not as many hours of work as you got before. Those are their words, that it is easy to slide outside the criteria of this law.

If it is easy for them to slide outside it, how can it, at the same time, be easy for your branch to make quick determinations on these cases?

Mr. Sadlier-Brown: I think we are talking about two separate things. There is the process of resolving a question about the kinds of issues that are going to arise under Bill 114 which are rather straightforward labour matters if a person makes a complaint. If a person does not make a complaint, it is not going to come to the system. I think that is what you have been talking about. Where a person does make a complaint, and that is what we are talking about here, there is a process in which it will be dealt with.

Mr. Hampton: What I am saying to you is that the mechanics you are talking about are related to the questions of employee justice. It is not good enough to have a complaint system that deals mechanically with the complaint and does not really address the question of employee justice. I have heard group after group come and say that this bill and the mechanics that are herein outlined may provide a simple mechanical procedure, but it will not address the question of employee justice. Make no mistake about it.

We have had groups say: "Look. There are fundamental questions of human rights here. There are fundamental questions of social justice here. There are fundamental questions of how society frees itself from some of the coercion of the economic marketplace." These are the fundamental questions that are being addressed. They have simply said that they have very little faith in the mechanics which have been set up in Bill 114 to address those fundamental questions.

Mr. Sadlier-Brown: The only observation I would make is that in the Ontario Federation of Labour briefs that were presented yesterday, reference was made to a brief that the OFL presented to the Ministry of Labour in 1986. If you look at the unjust dismissal proposals which the OFL makes in that brief, the mechanics it has set out, with the exception that it proposes to create an employment standards board rather than a branch, are almost identical to the mechanics we have set out in this process.

1410

Mr. Hampton: There is a pretty important difference, do you not think, between that and a board?

Mr. Chairman: We have the officials here to assist us on certain questions Mr. Jackson asked, and now you are asking them for a professional opinion.

Mr. Hampton: I fully appreciate that, but somewhere the connection has to be made between the mechanics and the larger questions. I believe that is what a lot of the groups that have appeared before us have been asking, and I am simply asking that question.

Mr. Chairman: We now have the mechanics. As the witnesses come forward, we can, in whatever way, shape or form, say whether it applies or not. I think we should get on with the witnesses. They are here for two o'clock.

Mr. Jackson: I can ask my other questions of the staff at a later date.

Mr. Chairman: All right. Thank you, Mr. Jackson.

Thank you very much for coming. I understand you arrived here expecting to be reached at 1:30 p.m. and we were not here. We appreciate your putting your heart under great stress to get here.

The first delegation appearing before us this afternoon is the Hudson's Bay Co.—The Bay, Simpsons and Zellers—Barry Agnew, vice-president, sales promotion, Hudson's Bay Co. Mr. Agnew, if you would come forward and be good enough to have a seat.

Mr. Agnew: Is this OK?

Mr. Chairman: Any seat you like. They are all equally hot.

Mr. Agnew: I was not lucky the last time.

Mr. Chairman: If you would identify yourself for purposes of Hansard, you have one half hour. You can use all or any part of that half hour for your presentation, but it would be appreciated if we had some time for questions from members of the committee. So if you would like to proceed.

HUDSON'S BAY CO.

Mr. Agnew: My name is Barry Agnew, vice-president of the Hudson's Bay Co. I am here today, as I have been on several other occasions, to discuss the issue before us. I think everybody has a copy of the brief. This afternoon, instead of reading along and you following the bouncing ball, I would really like to ask a couple of questions that, in our judgement, are fundamental to this whole discussion of Sunday shopping.

I guess the first and foremost questions to the committee and anyone else is, do we in fact have a common pause day in this province, and if we do not, why are we currently discussing this issue for retailers who are currently not open anyway? It seems to us at least to be some sort of a puzzle here, inasmuch as there are a lot of retailers currently open in this province and that issue is not being addressed.

Does anybody here, including the people who have presented over the last couple of days, basically agree with the old Retail Business Holidays Act or the new act as drafted? Obviously, we do not, but I wonder who on this committee does.

Maybe somebody on this committee could explain to me why virtually every product sold by The Bay, Zellers or Simpsons in this province can be bought on Sunday in this province but cannot be bought from one of our stores? There seems to be a little bit of moral flexibility in that equation.

Another good one, I thought, is maybe somebody could explain to me why David Bloom from Shoppers Drug Mart, whom I think you heard from yesterday, came here to ask that the 5,000-square-foot exemption be raised to, I believe, 7,500 square feet, because that happens to be the size of his stores. Was it because he is not in favour of Sunday shopping, which he currently enjoys? Was it because, and he left this out of his brief, 70 per cent of his sales have absolutely nothing to do with the prescription business? I think some of these questions should be answered.

Does anybody really believe that monopoly creates lower prices? If you do not, then I guess we have to ask the question, and have been asking it for two years now, why selected retailers are given monopolies to open on Sunday. Obviously, it must be so that the consumer can pay higher prices, because the current legislation is giving protection in monopoly situations in all forms of retail goods and services.

Does anybody really believe that small retailers, convenience stores or drugstores have formalized benefit packages and pay higher wages than department stores? If not, why are they open on Sunday? Is it for the benefit of the employees?

Is there a common pause day legislative activity in other industrial sectors in this province? And why not? Why are we discussing retail here today? The retail industry represents only 12 per cent of Ontario's workforce, and 30 per cent of that group is already working on Sunday.

Why is the government of Ontario the largest employer of Sunday workers if a common pause day happens to be the goal? It is a little inconsistent, from our point of view.

In this province, 1.4 million people right now are scheduled for Sunday work. That is 25 per cent of the current total workforce of almost 5 million people. Why are you proposing special retail worker protection?

I can assure you that if you go through with this, I can hardly wait for Mr. White's presentation on behalf of the auto workers. I would not miss that for the world. Why the retail sector?

Do you think that the municipalities will be able to implement and enforce the proposed unequitable legislation if it is lobbied to them in its current form? Not where I live they will not be able to. They will take three days to discuss what colour the dog licences should be.

By the way, just as an aside—because it was interesting trying to put together briefs; you find out some interesting things—you have had presentations, I believe, from the religious sector. It is interesting to note that the Catholic church operates a store which is open on Sunday. It happens to be right in the middle of St. Michael's Cathedral. I think it is great retailing; that's when the traffic is there. However, I think it is somewhat hypocritical and might be worth using on your tours.

I guess our position, after two years of discussing the inequities, the unfairness, the discrimination baked into the old law and the proposed new law, is that if these are not solved—and we make our recommendations on what we think should happen—I think that the Paul Magder case, which everybody thought was a media event, is going to seem like a traffic citation.

Do not underestimate us. We are prepared to follow this through by whatever means we have to to get this total inequity resolved. Although we might be in favour of Sunday shopping as a business concept, we are quite prepared to keep our stores closed and have kept them closed, but we are not prepared to tolerate, regardless of who administers the regulation, the tremendous competitive, financial discrimination that our company faces.

It is not a question of who wants it, who does not want it. It is a question of the fact that the law is inequitable. It has been stated by ministers of the crown and it has been stated by literally every group that I

have had the privilege to read the presentation of, whether it is for or against.

I think that is what this committee should be worrying about: How do we deal with that kind of an issue? You have to repeal Bill 113 and you have to repeal the Retail Business Holidays Act and you have to come to the decision that if Ontario is committed to a common pause day, then so be it. Close the retail sector down, with whatever emergency criteria there happen to be.

However, I think that, on balance, we cannot underestimate the fact that this province does not have a common pause day. Whether it is from a worker point of view or whether it is from the retail point of view, this province is open for business. But it is not open for all, and that is the major underlying problem in this legislation.

Our brief basically outlines specific cases where we feel it is wrong. We have dealt with what has really happened in the last 20 years; it has not been business as usual since 1970. Shoppers Drug Mart did not exist. I think it is important to recognize little facts like the fact that the drugstore business sells 50 per cent of the cosmetics in this country—very profitably, I might add. They are selling cosmetics and we are not, and we protest, to be perfectly candid.

As a long-respected company in this country, we believe that, frankly, we are getting a bad shake, and believe me, we are prepared to follow it through to its bitter conclusion, one way or another. Having been through this at least twice before, it is getting to be an old, tired joke. Somebody has to do something, because nobody is happy. The people against it are not happy; the people for it are not happy, and I think it has to be dealt with fairly and cleanly.

We can sit here and dispute all sorts of moral implications, labour implications, but the fact of life is that this province is open for business right now, and the status quo is unacceptable; either get on with it or roll it back. I do not think you have an alternative, because if you do not, you are morally hypocritical and you will have an economic situation that is totally unviable, riddled with inequities.

We are asking whatever level of government to deal with it, and I do not think anybody is capable of dealing with it. You are going to see retailers continue to break the law, irrespective of the penalties, and you are going to create chaos—which I thought was a great name for the group that was here this morning—in the marketplace. That is what you are faced with and that is what the legislation is facing.

1420

That is basically our case. It is an old record. We have not really changed our stance. I would be happy to answer any questions that you have. The brief is there. We have not made any substantive changes, although we have added a lot more facts and figures in terms of what is actually going on in this province right now. Frankly, we are tired of what is going on and, believe me, we are going to do something about it. That is about it.

Mr. Chairman: There are approximately 20 minutes, divided equally among the caucuses.

Mr. Philip: I want to thank you for the brief. Of all the briefs

that have been presented in favour of opening Sunday, this is the best researched, probably the most moderate in tone, free of rhetoric, and I compliment you on it.

Mr. Agnew: Thank you.

Mr. Philip: It is easier to deal with ideas than rhetoric, and as a politician it is fine for me to say that to someone else.

Mr. Jackson: Is there one about glass houses and stones? I do not remember that one.

Mr. Philip: I wonder if I can refer you to page 23. It is probably a typing error, but I am sure that on recommendation 1 you mean that the government not proceed, rather than that the government proceed with its decision. Is that correct?

Mr. Agnew: No, it is not a typo. We basically believe that the municipalities, however defined, are the way to go in determining an issue of this nature. Our basic premise for that is the fact that we do not believe that London or North Bay or some other smaller community necessarily has the same social structure, needs, desires or wants as other major centres. I guess the one we keep using is that Niagara Falls is possibly an entire tourist area, and maybe it is a very valid, economic proposition for a city of that nature, which in the case of Owen Sound might be ludicrous. We think it is very difficult to set a standard right across Ontario that would make any real sense unless it was simply a situation where it was an opt-in, opt-out situation and they could decide, "We're going to open," or "We're going to close."

We feel that if the framework could be structured properly, it would give each community the ability to do what it wants to do. Within the brief, we discuss the tourist exemption situation where right now there are 130, or whatever it is, tourist exemptions which are probably valid, at least valid in the eyes of that community as being realistic. It might not be valid from my point of view, because we do not happen to have a store inside one, but I think it is still the way to go. I think each community has its own needs, wants, wishes and desires and I think Metro Toronto or parts of Toronto certainly might have different needs than a small city.

Mr. Philip: I did have an opportunity to read your brief. I had 20 minutes for lunch, but I am a very fast reader.

Mr. Pelissero: We had only 10 minutes for lunch.

Mr. Philip: I still read it, believe it or not. The theme I got out of it—and I cannot point out the pages of it to you because of having so little time—was that you are saying the present bill, without any kind of structure for the municipalities, basically may lead to even more anarchy because the municipalities will create great anarchy.

Perhaps that might be a reason why you might be in favour of it. I mean, if what you want eventually is anarchy, I am giving you the old Marxist argument that if you can create a thesis, then there is an antithesis.

Mr. Agnew: I think it is actually not a bad argument.

Mr. Philip: Maybe if things really get bad, the revolution will come and you will get what you want.

Mr. Agnew: Not a bad argument, that he will create a horror show. Generally, out of a horror show comes something which is certainly better than what we have now. So you are right; it might not be a bad argument.

Mr. Philip: What you are saying is that now we have an organized horror show. Perhaps if we have complete anarchy, then people will eventually throw up their hands and say, "Let the stores do what they want."

Mr. Agnew: It could very well be. I think it is an interesting nightmare.

Mr. Philip: An interesting strategy. I think if I were in your position, I would probably want to take the same position to achieve the objectives that you have set out for yourself.

I would like to ask you something about British Columbia. You may not have facts and figures or you may not want to disclose them for commercial reasons, and I accept that. Was there a substantial transfer in total dollars of sales to The Bay after they were allowed to remain open on Sunday? In other words, did you get a bigger share of the market as a result of the 1980 legislation that allowed you to open?

Mr. Agnew: You asked me two questions. One, did we get a bigger share of the market? Marginally, that was probably due to marketing questions rather than Sunday.

What in fact happened was that the first full year we were open on a Sunday, our sales were up by a net nine per cent over the preceding year. They were up higher than that but we factored out what we were off. They were actually up 12 and we lost three on the Saturday and the Monday. But in net terms it was up nine and it has continued to stay at that level once it came up to the level of the whole marketplace.

We track shares, so we know if we were up nine and our share improves in a month, we can track it that finely. But if we are up nine, our share is way up and somebody was down. You can look at the Statistics Canada dollars in that case which are presented for that market. I have a feeling they were up 21 per cent.

The interesting thing was that in the first full year there was a dramatic lift in sales. I mean it was all plus. There was a minus, a little bit, from what we lost on a Monday and a Saturday. There was no question there was a little erosion on either side of it. People had a better opportunity. But once that level was hit, it literally maintained. The same thing happened in Alberta, almost to the same percentage points.

I think a better method of looking at it, and I do not know if they are making a presentation to you, is to discuss the major grocery chains, where they were open in the fall of 1986, before Black Friday or Yellow Tuesday or whatever it was. Then they closed. In the fall of 1987, they had stores taking sales decreases throughout their fall season at the 25 per cent range because they were not open on Sunday.

I am not trying to make a great big case for Sunday. I am just saying that it is an effective, very good business decision on behalf of the retailer. Not necessarily all, but generally speaking, if you had to trade a day, you would sure take a Sunday over a Tuesday.

Mr. Philip: But it is a better day for a large retailer than a small

Mr. Agnew: No, I do not think it is. I think the classic example of that is it is obviously good for Shoppers Drug Mart. It is obviously good for convenience stores. It is obviously good for a lot of stores. Otherwise they would not be open seven days a week.

You can argue that part of it is that they are protected because they do not have any competition from the "big stores." But I think the evidence we have seen—and believe me, we have researched this thing upside down and backward—is that there is no question that Sunday is and will be an extraordinarily valid shopping day because of the nature of our society, and that is more of a time pressure thing, with well over 55 per cent of the women in this country working.

1430

Mr. Chairman: Speaking of time pressure, we have to move on.

Mr. Agnew: I am running out, am I?

Mr. Philip: Thank you, anyway.

Mr. Jackson: Mr. Agnew, I would like to pursue the last point that Mr. Philip raised on the relationship between large and small retailers, which is unique. Within my own community, we have a large mall, a Cambridge Leaseholds plaza. You have a coterminous one in Oakville, which competes with our community, and has competed on extended store hours to the benefit of your company for many years. That has now been eliminated, but I do not want to dwell on that. I want to let you also be aware that my wife and her family have been in retail for countless years.

Mr. Agnew: This is with Dylex, right?

Mr. Jackson: You know about the Dylex connection, do you?

Mr. Agnew: We do our homework.

Mr. Jackson: OK. I want to put this in context with questions I raised but ran out of time on with the Cadillac Fairview vice-president who was here. I want to talk about the specific structure and nature of the financial arrangements for leasing that in and of themselves create an economic advantage for a large retailer or over a small retailer within a mall.

Obviously, that is a relationship which you monitor with equal amounts of attention within a mall and within a community. Particularly, the Cadillac Fairview representative indicated that one of the reasons for nonrenewal of leases was low productivity. With any legislation where the municipality said it was totally at the option, within a given mall, for retailers to stay open, clearly your corporate decision is that you will be very pleased to be open. You do not have to think about that.

Mr. Agnew: Not even think about it.

Mr. Jackson: A lot of small retailers have indicated to us that they could not, because of labour and familial matters, which were their two largest concerns. In fact, the leases in those malls force them out if they choose to stay closed because of the way they are structured.

Mr. Agnew: The way they are structured. Right.

Mr. Jackson: I am familiar with them, but I am trying to get my hands on a copy of them. You are not disputing that the structure of the lease causes immense pressure, that if you do not stay open that day—

Mr. Agnew: The current leases, as far as I know, and they are all pretty much the same, indicate that if you are in that mall, you are open the hours the mall is open, and if you do not open, you have a problem. That is based on whatever the shopping environment is. If it is a seven-day jurisdiction, fine; if it is six or five, it does not make any difference.

Mr. Jackson: I do not want to get off the track. I would like to pursue that when we have more time, because I know your company was operating in open defiance of the law and it created complications in malls where your competitors wanted to adhere to the law and the leaseholders got into the middle of the argument. I am just pleased that Cambridge decided on the side of the law in our instance and asked the parent company to comply.

I want to stay on this question of the structure of the leases, because clearly we, as the Ontario Legislature, can say it is illegal for a mall to have a lease that says they must all be open if it is an option locally to stay open. We have the power and the authority to do that. If we were, in fact, to do that, the very structure of those leases will force those small retailers out unless they stay open, because they will lose market share, they will lose their volume dollars. They will hit only their minimum lease requirements for payment and will never get into the bonus bracket, which is where the leaseholder makes a lot of additional revenue.

Mr. Agnew: Why would not the legislation indicate that no lease can force anybody to open Sunday?

Mr. Jackson: Because it would have no effect. That is my point. The way the leases are structured, we would have to create a law that says it is illegal to have escalator clauses in leases based on sales and retail figures. I am not excited about creating that law.

Mr. Agnew: Those are two issues, though. One issue is that the retailer does not have to open if he does not want to. You can legislate that.

Mr. Jackson: Yes, but the law really means, in terms of its effect, that a retailer who is not in a mall would be able to make a choice without suffering any economic consequences, because for him to freely choose to stay closed would be to accelerate his departure from the mall, because the leaseholders would tell him, "You are not longer welcome here because your sales are not sufficiently high enough and we do not want you here." We had testimony to that effect.

Mr. Agnew: I am trying to understand your question. You are saying that with the stores that stay open on Sunday, obviously, their productivity would be higher than the ones who did not.

Mr. Jackson: You just gave testimony to that effect.

Mr. Agnew: I am just asking a question.

Mr. Jackson: Yes.

Mr. Agnew: You are right. The other guys will blow him right out of the water if he does not open on a Sunday.

Mr. Jackson: You indicated earlier in your deposition that there are monopolistic elements in the current legislation. You just described to me the circumstances under which monopolistic circumstances would occur under the new legislation, given the clauses that exist with leases forcing out small—

Mr. Agnew: You have those current leases in effect right now, for six days a week. What difference does the seventh make?

Mr. Jackson: Because currently we have a law that says you should not be open on the seventh day in a mall—

Mr. Agnew: No, you are wrong.

Mr. Jackson: —excepting tourist areas.

Mr. Agnew: You are giving me a kumquat and an orange. Right now, the leases are valid for six days, in exactly the same way as you defined them.

Mr. Jackson: No, they are valid for seven days. That was the testimony from Cadillac Fairview.

Mr. Chairman: Please let the witness give his testimony, and then we are going to have to move on.

Mr. Agnew: Basically, whether the lease is one day, five days or seven days, the lease right now says, "Lack of productivity, you're out; if you don't open the hours the mall is open, you're out," whether that is six days or seven days. Why is it a concern of yours now because it is the seventh day, when it is not a concern of yours on six days?

Mr. Jackson: Because the current law protects them. That was my point.

Mr. Agnew: No, the current law keeps all the mall closed.

Mr. Jackson: That is correct, so it protects them.

Mr. Agnew: But it does not protect anybody else. What if I am a free-standing retailer?

Mr. Jackson: I am referring to your statement about the monopolies.

Mr. Agnew: Yes, Cadillac Fairview is a monopoly.

Mr. Chairman: We are going to have to just let whoever reads Hansard work that out in terms of what was said and what was not said. We are going to move on now to Mr. Kanter.

Mr. Kanter: I would like to thank Mr. Agnew for an extremely well researched brief. I think the information it contains is extremely interesting. I had a chance to glance over it very briefly at lunch. Some of the information—for example, information on the large number of Ontario government employees who work on Sunday—I found interesting, and in fact you provided information I have been trying to get for some time, so I want to commend your research efforts.

I also thought your questions were clearly relevant, questions that all members of this committee should consider, perhaps without some of the

interests that some of the various groups brought before us. I think the questions stand, regardless of our views on these issues.

I do have several questions of you and want to try to comment on one question that you raised. The first one relates to your general position on legislation. Many groups that have come before us have supported a provincial framework—most closed, some open—but oppose the idea of a local option, even though that may be somewhat similar to what we have now. I take it your general position is opposing a provincial framework but supporting a local option. Is that generally your position?

Mr. Agnew: Yes, it is our position. We oppose the current framework being proposed. We are in favour of a local option as the proper framework to let them operate.

Mr. Kanter: OK. I just wanted to understand it. A number of groups have come before us—this question is related to your particular expertise as a large retailer—and said seven-day operation will increase prices. What is your experience in that regard?

Mr. Agnew: First of all, it does not increase prices. To put it in simple terms, our stores are open seven days a week in some provinces and six days in others. The only variable we are faced with on an extra day literally is our payroll cost. The rest of our costs are fixed. Our inventories are fixed, our heat, light, power and taxes are all fixed, whether we are open one day or seven. All that is fixed.

Our only increase in cost is our payroll on that day, and then the question remains, will the extra payroll costs that you, as a businessman, incur on that day justify the sales volume you are getting on that day? It is a pretty simple equation. We do not save any money by staying closed on Sundays. Probably as high as 75 per cent of our expense base does not alter. Our inventories are sitting there, we still have to guard them and protect them and do all the stuff we do when we are open. The variable is employees.

1440

Mr. Kanter: Let me ask a question about demand for other services. People talk about a ripple effect and the need for other services like day care, transportation and that kind of thing. In your experience, what have you observed on these other services where your stores are open?

Mr. Agnew: I cannot comment on everything that is happening in terms of British Columbia, Alberta, and latterly, Saskatchewan, but we did not see anything in terms of feedback from our employees that it was creating any other types of issues in terms of the ripple effect. I suspect that when you have open Sunday shopping, there are lots of other activities that come along with it. Whether a company like ours does not distribute goods to its stores and our distribution centres are not working, or whatever the case may be, is somewhat irrelevant.

I cannot really comment. We did not find out anything that was particularly untoward from any aspect of it and we have been open for over three years in those provinces now. As I said, we are not trying to think that Sunday shopping is a panacea or is necessarily right or wrong.

Mr. Kanter: A number of groups that have come before us have referred to a study, I think on the basis of the Ontario Law Reform

Commission, back in 1970 that really provided a rationale for protecting retail workers, particularly women, saying that restrictive Sunday shopping legislation is protecting them and that they ought to be protected. I think you alluded in some comments to some demographic changes since that time. Could you elaborate on that?

Mr. Agnew: First, half the retail workers in Ontario are male. Actually, it is a little lower than, I guess, the demographic percentage. I think women have a bigger percentage in this province. I guess what really upsets us is the felt need to protect this poor, downtrodden worker, when in fact there is no existing legislation to protect anybody else who happens to be in this province working in any other sector. We tried to point out that only 12 per cent of the entire working population of this province works in the retail sector, of which 30 per cent is already working. It just does not make any sense to us.

As a large retailer that has public benefits and salary ranges that are far beyond all the stores that are currently open in this province right now, we just do not understand the logic of the current legislation, and somewhat with what is proposed under the labour side of the act. A convenience store around the corner, at whatever and whatever, I doubt has a pension plan or pays \$8 an hour.

Mr. Kanter: My last comment is in answer to Mr. Agnew's initial question, do we have a common pause day in Ontario? This is something many members have raised, particularly Mrs. Cunningham, who is not here right now. My response to your question, and indeed the entire thrust of your brief, is, yes, we do have a common pause day in Ontario. Our proposed legislation clearly treats Sunday differently for retail workers than other days of the week.

However, I think we recognize that the common pause day is evolving, that the activities that are allowed and the areas where these activities occur are evolving. Our government is essentially trying to steer a middle course between those who, like a group we heard this morning, want to restrict or limit activities on Sunday and those who, like yourself, want to greatly extend them. That, I submit, is my answer to your question about the common pause day.

Mr. Agnew: I guess I would probably have to argue with Mr. Kanter on that issue because if you get outside the retail sector, as defined, I cannot think of too many businesses that are not operating seven days a week, or industries for that matter, whether it is the car plant in Oshawa, the airlines, the food service industry, or football or baseball teams. A wide variety are wide open on Sunday and doing business and have been, because this law has been evolving since about 1900 and the debate has never changed, from whether they were going to allow swings in the park or whatever.

We have all read with interest the Star story, which is quite amusing. Unfortunately, I figure I am not going to live another 50 years and it would really be great if we got on with the evolution or cleaned up the inequities, one or the other. We think this does not steer the right course. That is our argument.

Mr. Kanter: It does not steer the right course because it is not liberal enough.

Mr. Agnew: It is not liberal enough from the point of view—

Mr. Kanter: Perhaps that was not a good choice of words.

Mr. Agnew: I think it was a great choice of words.

Mr. Kanter: It does not permit enough Sunday shopping.

Mr. Agnew: I am not saying it does not do enough. I am just saying, fine, as long as you are going to liberalize it, you can let us open, keep Eaton's closed and we will be very happy. That is about as dumb as I think some of the things in here are, because that is in essence what you are doing. You are allowing me to open, but you are telling the guy, because his name starts with an E, that he cannot open, or he is on the wrong side of the street. That, to me, is where the law falls apart.

Mr. Kanter: Did I not hear you say that attitudes of communities vary quite substantially?

Mr. Agnew: Yes.

Mr. Kanter: Do you not feel that we, as a government, have an obligation to try to reflect those variances?

Mr. Agnew: I agree.

Mr. Chairman: I think we have reached the end of your time, Mr. Kanter. We appreciate you coming before us, Mr. Agnew, to impart to us the facts you have.

Interjections.

Mr. Chairman: Mr. Jackson, just for purposes of the record, and for the other members of the committee, I gather you were asking for a copy of his lease and that it will be sent to us. I hope that will be made available to all the members of the committee, if that is possible.

Mr. Agnew: I can get a copy of those standard mall leases, if the committee would like.

Mr. Chairman: The next group coming before us is the Retail Merchants Association of Canada (Ontario) Inc., Harry Boam, director, and Leonard Domino. Perhaps you gentlemen would have a seat and the main presenter can identify you for purposes of Hansard. You have 30 minutes. You can use all or any part of that time for your presentation. It would be desirable, however, that you leave some time for questions from the members of the committee.

RETAIL MERCHANTS ASSOCIATION OF CANADA
(ONTARIO) INC.

Mr. Boam: My name is Harry Boam. I am the owner and operator of Oakville Appliance and TV Centre. I am speaking to you today on behalf of the Retail Merchants Association of Canada (Ontario) Inc. I am a director of that organization. In the next few minutes, I will be making a number of comments and suggestions with respect to Bill 113. The comments and suggestions reflect the concerns of our 4,000 member merchants across Ontario. I think it may be useful to members of the committee if I begin by telling you a little about the business realities that smaller merchants like myself—

Mr. Chairman: Excuse me just a second. You tend to speak rather low,

not projecting to the back of the room. If you would try to raise your voice it would help us.

Mr. Boam: I think it may be useful to the members of the committee if I begin by telling you a little about the business realities that smaller merchants, like myself and like the vast majority of our membership, face in the marketplace each day. I think my own business is not untypical.

I sell appliances. My major competitors are giant enterprises, the Eaton's, Simpsons, Bay, Brick, Pascal and Consumers' Gas companies of the world. Those large enterprises have the resources to advertise more broadly than I can advertise. In order to be able to compete successfully, I have to offer something they cannot. For me, and for most small retailers, that extra something is personalized service provided by a knowledgeable and professional sales staff.

When you walk into Oakville Appliance and TV Centre, you will be waited on knowledgeably by me or by professional sales people who have been members of my business for years. That is the pattern for success for small retail merchants.

It is from that perspective that we have raised concerns about some aspects of Bill 113. You see, should my competitors be able to open on Sunday, I will have little option but to do so as well. But whereas the key people in the organizations that compete with me will still be able to spend their Sundays with their families or on the golf course, as with Mr. Agnew, I and my senior staff will not enjoy that luxury.

We cannot hope to provide the level of professionalism and service we must provide to be competitive by relying on part-time or untrained people. That is especially true in a business like mine where we are selling larger ticket items. You see, people tend to shop carefully before buying major appliances. They will visit several stores, compare prices and features, go home and discuss it with their families and then decide.

1450

A very normal pattern for a merchant or salesperson in the appliance industry is to meet a customer on a Thursday or Friday and then close the sale on a Saturday, having already invested a significant amount of time in helping the customer to decide. As a result of this pattern, the professional sales people in my industry almost all work on Saturdays, because that reflects the customers' needs. Were our competitors to be open Sundays as well, we would have no alternative but to work Sundays too—every Sunday.

For us and for the people who work in our business, our opposition to open Sunday shopping is based on the simple, inescapable business reality that in the event our competitors open Sunday, we will lose the one day we now have to spend with our families. We will lose Saturday night as the evening when, after a hard week's work, we can stay up a little later to visit with family or friends. In a community where our children have Sundays off school, our neighbours have Sundays off work and our parents and relatives are free Sundays for family gatherings, we will be effectively excluded from contact with them.

Those are not theories. They are not speculations about what might happen. They are the hard and inescapable consequences that we and our co-workers and our families will face in the event this legislation leads to open Sunday shopping in our communities.

For us and for our families, the Retail Business Holidays Act represents an important set of protections for our family lives and for our ability to operate small and independent businesses whose success is based on providing exceptional service. We are deeply concerned that this bill reduces those protections.

There are also some things about the bill that we like and for which we would like to commend the government.

We applaud the improvements in enforceability that are included in this bill.

We applaud the move to establish meaningful penalties for those who disregard the law, hoping thereby to gain some commercial advantage.

We applaud the move to eliminate loopholes, like the custom of roping off areas in large retail establishments, which have made a mockery of the law in the past.

We applaud the fact that the bill will permit those who are not Christian to close their facilities on their Sabbath day and open on Sunday. Many of us value Sunday as our Sabbath and we could hardly suggest that those of other faiths should be less able to observe their day of rest than we should be.

We would suggest that this committee consider whether the procedures whereby a merchant of the Jewish, Muslim or other faith may declare his or her Sabbath to be a day other than Sunday need be as legalistic and as bureaucratic as the current bill would make them.

The government has said it is not in favour of wide-open Sunday shopping.

Our preference, as the committee well knows, would be for the Legislature to demonstrate that by passing a law that established a province-wide standard for a common day of rest, with exemptions for essential and recreational services as we have now, rather than establishing the ill-defined local option that is embedded in this bill.

The government, however, has committed itself to the local option route, and we know there is little likelihood that this committee will vary from that approach.

In light of that fact, we believe the members of this committee should focus carefully on the mechanism of local option. How can the local option operate in a way that will ensure it is responsive to general community views, rather than being forced or manipulated by special interests, and especially by those with the financial and professional resources to manipulate or unduly influence municipal bylaws to their advantage?

Here we have some specific suggestions we hope you will consider.

First, as has already been pointed out to the committee, I believe, we would recommend that you move to eliminate an anomaly in the bill as it stands. Under the bill as it stands, the various municipalities within a regional municipality are constrained from adopting Sunday opening policies at variance with their neighbours'.

North York, for example, cannot move to open Sundays without general

agreement among the Metro Toronto municipalities. The reason for this is sound: if a single municipality were to adopt open Sundays, merchants on its borders would have little option but to urge their own councils to follow suit, creating a sort of domino effect, regardless of the wishes of the majority of the citizens in the area. This is a sensible measure.

In rural areas, however, there is no such limit on the ability of the various townships in a county to move independently to open Sundays, although such moves would create exactly the same kind of domino effect in their areas. We believe rural centres ought to enjoy the same levels of protection as urban centres do, and so we would urge the committee to amend the bill to establish this principle.

Second, we would recommend that you ensure that, within communities, the mechanism for local option be so designed as to protect against undue influence by any group. We believe that can be achieved by such measures as:

Requiring that the local option be triggered by public initiative rather than by the lobbying efforts of special interests. In large urban centres, for example, there could be a requirement for a petition signed by five per cent of the electorate prior to the introduction of a resolution to remove the protections of the Retail Business Holidays Act from the people of that community; in rural centres, it may be preferable to require a higher proportion of the population to express support prior to introduction of any such resolution; and/or

Requiring local referendums as a means of establishing whether or not to permit Sunday shopping in any community; and/or

Requiring that all municipalities hold public meetings and receive briefs prior to adoption of any council resolution that would result in diminished protections under the Retail Business Holidays Act; and/or

Requiring a waiting period after the adoption of any such resolution and before it comes into force to permit appeals to the Ontario Municipal Board relating to the adequacy of the process, i.e. were the public initiative and public hearings requirements fulfilled; and/or

Specifically exempting sotres which have traditionally been allowed to open on Sundays to meet community needs from diminution in these privileges through local option.

The result of such requirements will be that there will be a strong and clear onus on those who wish to remove protections now provided by the Retail Business Holidays Act to demonstrate clearly that they reflect the views of the community.

A simpler mechanism requiring nothing more than a motion passed by council would create the perverse outcome of putting the onus on those whose protections are threatened.

We believe the proper management of local rights to designate certain geographic zones as exempt from Sunday opening restrictions would involve parallel requirements for those seeking extension of such zones to demonstrate broad community support.

In economic terms, we believe it is important to understand that an overall relaxation of the rules governing hours of business is a zero sum

game: it will not create more consumers; it is unlikely to create more jobs in total; it will not lead to increased orders for the products of our factories or farms.

It may be that some merchants, especially the large firms and those who provide the least knowledgeable service, would make commercial gains in an environment of open Sundays. Those gains would be made at the expense of other merchants and would represent no net increment to the wealth of the community.

That has been exactly the result in the major Alberta cities of Calgary and Edmonton. And as that is true, we believe it is entirely appropriate that the committee move to ensure that the local option mechanism you establish in this statute be a mechanism that places a very clear onus on those who argue for change to demonstrate that they speak for the community. If you fail to do so, then, with the best will in the world, you will have created a situation in which the gradual, and probably not so gradual, extension of open Sundays becomes a reality in Ontario.

If you place that onus where it should lie, on those arguing for change and for the diminution of the protections that merchants and their employees have enjoyed under the act, then you will have ensured that this legislation provides a framework that the community can use to govern the observance of a common day of rest in a way that reflects the community's values and interests.

1500

I am not a disinterested observer; nor are our 4,000 members across Ontario; nor are the tens of thousands of people we employ; nor are their families; and nor are ours. We are the people who will be most directly and most adversely affected by this legislation if you permit it to go forward in a flawed or ineffective form. We are the people who will lose legal protections that we have valued.

In the very simplest terms, if this legislation does not provide safeguards against local decisions that are taken lightly, arbitrarily or in response to pressures from particular interest groups, then you will be legislating that I, and thousands of others, will have to work every Sunday for the rest of our business lives.

The government has said that this is not the intent of this legislation. The members of this committee have assured the public that this is not the intent of the legislation.

I urge you to build for us the right kind of mechanism for local option, a mechanism that places a heavy onus on those who argue for diminished protections under the law, because only in that way can you be sure that the intent and the outcome of this bill will be the same.

I thank you.

Mr. Chairman: Thank you very much. We have about 15 minutes left, five for each caucus.

Mr. Philip: You have given the example of how it is better to do this, if we go the municipal option route, by regional municipalities. You give the example that North York, for example, cannot move to open Sundays without affecting Metro Toronto municipalities.

I represent northern Etobicoke. I ask you this question: Do you not see that Etobicoke would be under every bit as much pressure if Vaughan or the regional municipality of Peel were to open as if North York were to open within Metro Toronto; that in southern Ontario the boundary lines, be they regional or local, are still side by side and if the guy on the other side of the street, even if he is in a different regional municipality, is going to open, I am going to have to open?

Mr. Boam: Yes.

Mr. Philip: So the municipal option, even if it is regional, is still going to create a domino effect. Would you agree?

Mr. Boam: Yes.

Mr. Philip: You deal with the possibility of taking the municipal option to the Ontario Municipal Board. My question to you is this: Does an appeal to the OMB make any sense if this government does not put into the legislation criteria which the OMB would use to decide whether or not the stores should be open, and if you do have those criteria, are you not in fact negating the principle of this bill, which is the municipal option?

Mr. Boam: To some extent, yes, you are right.

Mr. Philip: Basically, what you are saying is that the municipal option, which is a major principle of this bill, is inoperable?

Mr. Boam: It is operable, and it is probably the only chance we have, provided that the small pressure groups are squashed, if you like, by the OMB.

Mr. Philip: But for the OMB to do that, it is going to have to have some criteria to do that and this bill does not have the criteria to evaluate.

You could, I think, develop criteria as to what a tourist area is. The minister says she cannot, but I am sure the Association of Municipalities of Ontario would be happy to help us do it. Then the OMB has something to go by. You cannot make a judgement unless you have some criteria to judge by.

Mr. Boam: That is correct.

Mr. Philip: I think my colleague wants some of my time. I have other questions—

Mr. Chairman: Mr. Hampton, you have about a minute and a half.

Mr. Hampton: I am from the northern part of the province, and one of the concerns I had expressed to me even goes outside the so-called regional municipality aspect of this. Where you have communities, say, every 100 miles and then you have a main centre like Thunder Bay, the concern that has been expressed is that if Thunder Bay voted locally to open on Sunday, what you have set up is the weekend shopping spree, where people will go from Fort Frances or Atikokan or Dryden or Terrace Bay or Geraldton and take their weekend in Thunder Bay, whether it be once a month or once every six weeks, and that then becomes their Saturday and Sunday shopping spree.

That has local merchants in my community terrified. They consider that every bit as much a domino effect as if somebody moved just outside the town's

municipal boundary and opened up. Can you see the rationale in that kind of concern? Can you see the domino effect working in that way?

Mr. Boam: Yes, but that is only a percentage of the retail stores. I cannot see people dragging chesterfields and heavy refrigerators 100 miles; plus service would be an important factor.

Mr. Domino: You should realize too that the Retail Merchants Association of Canada (Ontario) Inc. would prefer a standard for the whole province, but we accept the political reality that the government appears not to be willing to be accept that responsibility, that it is going to go to local option. We are trying to make local option as effective and democratic as possible. That is the approach we have taken here. If we were given a perfect world, we would prefer a province-wide standard and a province-wide rule. The solutions we are suggesting are not perfect, but we think they are better than the current legislation.

Mr. Jackson: I will be very brief. I wish to commend you for your brief because it is balanced. You see some good things and not-so-good things in the legislation, and that is always helpful to a committee such as this.

Briefly, it is clear where you stand on the common pause day, but we have not heard that much from you on tourist areas. Could you elaborate on your concerns with respect to tourist areas? We all agree that the current legislation was not working. Did you feel that there was a solution possibly in that area? Would you be willing to work on amendments to the current legislation with respect to tourist designations?

Mr. Boam: We have not done any research at the moment, but we would certainly be willing to help on it.

Mr. Pelissero: I am sorry, I cannot hear him.

Mr. Boam: We have not researched that particular area, but we would be willing to help research that area.

Mr. Jackson: Some of your members are located in malls. You were present in the room when I asked my questions of the previous deputant, Mr. Agnew, from Simpsons and Zellers. Were you aware of the point I was questioning him on?

Mr. Boam: Yes.

Mr. Jackson: Would you like to comment on the effect of those kinds of leases in concert with the effect of deciding to stay closed when the largest retailers within a mall choose to stay open on a Sunday under this legislation?

Mr. Boam: I have not read those leases, but I would say from a personal point of view that pressures would be put upon a store not open Sundays. If you have 10 stores open and two are closed, you spoil the effect of the mall. It is obviously to the landlord's benefit that these stores in the malls would all be open. If they are not all open, he is not going to be getting the best gain from the mall, and the rest of the merchants would suffer in the same way.

Mr. Jackson: Previous deputants, including the Canadian Federation of Independent Business, have also argued that the law in that framework would

force small retailers out of malls who did not necessarily comply with opening on Sunday, even though they would have an option. It was not simply on the basis that they refused to work. It is that they had to work in order to keep their profit margins within a range in order to keep at that location. Otherwise, by making that choice freely they would be evicting themselves in accordance with the mall owners' rules.

1510

Mr. Boam: This is right. I know some dealers, friends of mine, who have been evicted from malls because of arguing about Monday, Tuesday and Wednesday evenings. Their lease lasted less than two years after that fact.

Mr. Jackson: Do you think this is an area this committee should be examining more thoroughly to protect your members?

Mr. Boam: If Bill 113 goes through it is an area where you have to do something to protect members. It has to have teeth.

Mr. Chiarelli: I really want to thank you for your brief. In a sense, even though you might be on competing sides of the fence with the Hudson's Bay Company, you have both have been very instructive to this committee today.

After six days of hearings, in my opinion the Hudson's Bay Company brief and your brief are really the first two that have offered specific, constructive suggestions in terms of legislation. I think that is what we are here for as a committee. In a sense that they did offer, if I might—

Mr. Philip: The Bay did not offer any suggestions at all.

Mr. Chairman: I think as I said before and I will say it again and I will say it for the last time, members each have time and I think, in fairness, they have listened to your questions. You should listen to theirs. I do not think there should be interjections. They are out of order.

Mr. Chiarelli: If I could continue. I have been looking for specific legislative suggestions in all the briefs that have come forward. I appreciate the suggestions that you have made and the specificity of them, if I can put it that way.

But I have a question that deals with something that you did not deal with. That is the labour question. You have, as you indicated, tens of thousands of employees who are within your group, the Retail Merchants Association of Canada (Ontario) Inc. How many of those employees, roughly now, if you can tell us, would now work on some Sundays? Do you have any numbers at all?

Mr. Boam: It is difficult to say. No, I would not. From a personal point of view in my store, we would have to have more or less all of those employees working Sunday. This goes back to the fact that if you personally were looking for a refrigerator and your wife may have been shopping on Thursday or Friday and you were going to come back, you are not sure now if you are going to come Saturday or Sunday.

If I were a salesman working in my store I would have to be there Saturday and Sunday because 50 per cent of my clients will come back on one of those two days. We are going to take Saturday and split it.

As we heard during the debate they will get a percentage of Sunday sales to increase their total turnover. Whether somebody is actually working that day or not does not matter. They are going to get an overall percentage. But if my particular salesman wants to get the commission for that sale, he has got to be there Saturday and Sunday every week.

Mr. Chiarelli: But at the present time you do not have a bill such as Bill 114 which provides some element of protection. Do you think that is a step in the right direction, if not a perfect step in the right direction?

Mr. Boam: It might be a step in the right direction but it does not protect the worker from the consumer. The consumer is going to come Sunday. The salesman has to be there Sunday. He is not asking for protection. He just has to be there if he wants to make his salary.

Mr. Chiarelli: Just one additional short question. It has to do with the appeal to the Ontario Municipal Board. The suggestion was made by myself to a person who made a submission this morning with respect to appeals to the OMB as well as a number of other items of process.

He seemed to accept that process was significant, as you do, but vis-à-vis the OMB—if I might just add a comment and perhaps you can comment on it—and vis-à-vis the policy framework or structure that the OMB could work with in some kind of an appeal, for members perhaps who have not been involved with the OMB, at the present time there is no policy structure and there are no planning principles per se which are dictated in legislation or regulation to the OMB on zoning matters and other matters that it deals with.

In my assessment of the situation, the OMB works in a generally quite satisfactory manner in deliberating on the issues. However, I would like to receive from you, if you care to send it in the next couple of weeks, some more specifics on the nature that an OMB appeal could take and the type of decisions it might render in this area. I am particularly interested in this area and I would appreciate receiving your further thoughts on it, if you care to send them along.

Mr. Chairman: I would like to thank you, gentlemen, for coming forward with your information and for taking time out of your busy schedules.

The next delegation is the Canadian Federation of Independent Grocers. We have Tony Wilshaw, president, and John Donaldson, chairman of the Ontario provincial committee. For purposes of Hansard, would the presenters identify themselves for the record?

I will reiterate that, because of the number of people we wish to hear from around Ontario, we have allocated 30 minutes. You can use all or any part of that time to make your presentation, but it would be desirable if you could leave some portion for questions from those members who wish to ask questions.

CANADIAN FEDERATION OF INDEPENDENT GROCERS

Mr. Wilshaw: My name is Tony Wilshaw. I am the president of the Canadian Federation of Independent Grocers. I am very pleased to be joined by John Donaldson, who is chairman of our Ontario provincial committee and a retailer from Stratford.

On behalf of the Canadian Federation of Independent Grocers, we

appreciate this opportunity to present our federation's point of view with regard to Bill 113 and Bill 114.

In February 1987, our organization appeared before the select committee on retail store hours. At that time, we reported that a survey conducted among our 1,500 Ontario members found independent grocers with strong feelings both for and against the concept of wide-open Sunday shopping. Nevertheless, the vast majority, 71 per cent, were opposed to wide-open Sunday shopping.

In the intervening period, these views have not been changed, and CFIG initially found some consolation from meetings with the Premier, the government House leader and the Solicitor General (Mrs. Smith), who expressed the view that they were opposed to creating a province in which wide-open Sunday shopping would become a way of life.

These comments, of course, were consistent with the recommendations of the select committee on retail store hours, which stated as its guiding principle that a common pause day on Sunday should be retained by the province of Ontario. Other recommendations made by the select committee, which it should be noted included the present Solicitor General, Joan Smith, seemed to deal most effectively with the many inequities in the present legislation, while ensuring that overall control with regard to Sunday shopping remains with the provincial Legislature.

Particularly welcomed by independent grocers was the proposed amendment under clause 3(1)(c), which would make roping off, or temporary closing off by any means, in larger stores illegal under the legislation.

The proposed amendments to clause 3(2)(b) would have firmly restricted the range of merchandise permitted to be sold by pharmacies on Sundays and holidays. In essence, pharmacies were to be treated the same way as food stores, since the merchandising restriction was not to apply to small pharmacies with a selling area of less than 2,400 square feet.

These recommendations and others appeared to be directionally correct in meeting the concerns of independent grocers. It was good to see Bill 113 include many of the select committee's recommendations in this regard. Unfortunately, the bombshell that independent grocers find most unpalatable is that municipalities will be given the right to overrule all of the good in Bill 113 by proceeding with the local options except in the one instance relating to liquor and beer stores, where it appears it will remain the government policy that these be closed on Sundays and holidays.

The CFIG is fundamentally opposed to the concept of the municipal option with regard to Sunday opening. Of course, we have heard the arguments that the municipalities decide on store hours six days a week, therefore why not a seventh. This is too easy a statement to make and in our view represents an abrogation of the provincial government's responsibilities, which it should exercise under the labour laws of the province, to establish for the majority of citizens a common day of rest, a family day, if you will.

1520

Apart from the serious negative impact on family lifestyle caused by wide-open Sunday shopping, we also believe that the municipal option will become one of the most divisive, contentious issues ever witnessed by this province at the political level. We will see citizen fighting citizen, community fighting community, rural fighting urban as slowly but surely we

first of all move to a checkerboard wide-open Sunday shopping situation, which will ultimately lead, because of commercial pressures, to wide-open Sunday shopping throughout the province.

The government has said it does not want this to happen, in fact that it does not see this happening, yet the evidence suggests this is not an exaggerated scenario. This issue became so divisive in New Brunswick that the new provincial government has just tabled Bill 60, removing the municipal option with regard to Sunday opening. In British Columbia, the lower mainland is now 100 per cent open on Sundays as, one by one, municipalities have been forced to meet the store opening hours of their neighbouring municipality. In Alberta, wide-open Sunday shopping in Calgary and Edmonton is drawing the public in from as far as 75 miles away and sucking out the economic lifeblood of small communities in those provinces.

For these reasons, we are totally opposed to the proposed municipal option. However, if the government is determined to proceed despite opposition from the municipalities and the retail trade, we must seek modifications to the proposed legislation which will better address the concerns of independent grocers. We therefore would make the following recommendations.

First of all, with regard to drugstores, the proposed legislation will permit drugstores to open on Sundays with a selling area of up to 5,000 square feet; but small stores selling foodstuffs are restricted to 2,400 square feet, with no more than three employees. It is very difficult in today's marketplace to define a drugstore, since we have drugstores selling a wide variety of foodstuffs and food stores with pharmacies.

These two classes of retailers are in direct competition with each other, and we would urge that they be placed on the same basis with regard to Sunday opening. This can be achieved either by increasing the size of small stores that can open to 5,000 square feet and removing the employee restriction or by reducing the permitted size of drugstores that can open on Sunday.

Our second recommendation relates to enforcement. The fine, upon conviction, of up to \$50,000, believe it or not, may not be a sufficient deterrent when one considers that large superstores in the grocery industry can turn over \$1.5 million or more in weekly sales. Also, this figure will erode with inflation. We would prefer to see the recommendations of the select committee on retail store hours adopted in this regard: that is, that the fine be equal to 100 per cent of gross value on the day of the violation plus a \$1,000 fine.

With regard to Bill 114, An Act to amend the Employment Standards Act, we have serious questions about the practicality of the proposed legislation. It is our understanding that all retail workers will have the right to refuse an assignment at work if the worker considers it unreasonable. We say this because if provincial law and municipal legislation permit wide-open Sunday shopping, we would expect Sunday sales through food stores to quickly become the third-largest volume day of the week. Consequently, it would seem reasonable for an employer to expect all of his key workers to be available for work on that day.

While existing employees may have the protection to refuse continual Sunday work, there is no question that new employees, and ultimately all employees, in the retail food sector will find that their core employment hours will include the busiest days of the week, which will include Sunday. In

our industry, Friday, Saturday and Sunday are the busiest days. Since Monday is also a busy reordering day, we would expect the majority of retail food workers to be given Tuesday and Wednesday for their weekend break, if you will. This will undoubtedly place them out of synchronization with other family members, in particular their children, who will continue to be available for family activities only on weekends.

In conclusion, the Canadian Federation of Independent Grocers remains firmly opposed to wide-open Sunday shopping on economic and social grounds. In particular, we feel that the municipal option is the worst possible course of action for the provincial government to take, as we believe in the long run this will lead to wide-open Sunday shopping.

We recognize the dilemma faced by the provincial government regarding challenges to the existing legislation protecting rights guaranteed by the Canadian Charter of Rights and Freedoms and enforceability. We continue to urge the government seriously to consider adopting the approach taken in Manitoba two years ago, which has worked very well in ensuring that a reasonable level of services is provided to the public while maintaining Sunday as a common pause day for the majority of the population.

If the government is adamant in proceeding with the municipal option, then we would urge that consideration be given to placing a cap on the extent of the municipal powers with regard to permitting wide-open Sunday shopping. Again, if municipalities are to be given an overriding option on the provincial legislation and it is the government's desire not to see wide-open Sunday shopping, why not place a ceiling on the number of employees a municipality may permit to work in a retail establishment on a Sunday?

We appreciate this opportunity to state our views and we would be pleased to co-operate further in any way deemed desirable by the committee.

Mr. Chairman: Thank you very much. I am just trying to calculate the—

Mr. Philip: We will all chip in to buy you a calculator.

Mr. Chairman: I need something, a stopwatch or something. I think there is about six and a half minutes each.

Mr. Philip: I find your comments on British Columbia useful. Basically, you have dispelled the minister's statement that the domino theory was somehow a myth, because what has happened on the lower mainland in British Columbia is what would happen in southwestern and southern Ontario. Is that what you are saying?

Mr. Wilshaw: Absolutely. I see no support for any other argument than the domino effect. We have seen that take place in British Columbia. I have not seen it work to the contrary, and we have to expect within this province, particularly as our communities are so much closer together throughout the province, that ultimately we will have wide-open Sunday shopping. Unfortunately, it will be a very messy situation because some communities will open and some will stay closed for a while. The merchants in those communities will suffer economic hardship. I am sure they will place pressure on the municipality ultimately to open, even if initially they themselves were opposed to opening. We will have a full domino effect and the whole province will be open. That is certainly the evidence we see from British Columbia for this province.

Mr. Philip: It is useful to have that information, even though it is secondhand. Unfortunately, the Liberal members on this committee, just as they want to protect us from questioning the minister on contradictory evidence, also want to prevent us from questioning people in British Columbia.

Mr. Chairman: Mr. Philip, you have sort of stuck me in that. As chairman, I do not get a chance to defend myself very often—

Mr. Philip: You did not vote on that, and I exempt you.

Mr. Chairman: I still find that statement to be offensive and inaccurate, at least on my reading of it.

Mr. Philip: That is fine. You can find it offensive if you like. It is my statement.

Mr. Chairman: Fair is fair.

Mr. Philip: I am going to ask a question concerning New Brunswick, because you do mention it. I wonder if you can tell us exactly the reasons, in your view, that the New Brunswick government, which had the municipal option—enacted it two years ago—is now rescinding it under a Liberal majority—to say the least—government. Why did it not work there? Why are they rescinding it?

Mr. Wilshaw: It became a very divisive issue, both divisive with citizens within communities who felt it impacted on family lifestyle and divisive from the point of view of municipality to municipality, one municipality desiring to open and another wishing to remain closed. The logical conclusion, I think, that the New Brunswick government came upon was that they had to withdraw that municipal option, and they have just done that this past week with Bill 60.

My understanding is that they are looking very closely at adopting the Manitoba approach, which will permit retail establishments to open, provided they have no more than four employees on a Sunday.

Mr. Chairman: Mr. Philip, just by way of assistance—and I think we are interested in that information—I would like to have our research tell us about the New Brunswick experience and the domino theory, if you can. It might be helpful.

1530

Ms. Swift: I handed out a memorandum at the beginning of this week, I guess it was, in which I listed the current status of Bill 60 and the number of municipalities in New Brunswick that have adopted or have taken advantage of their local option and allowed retail stores to open. There are three municipalities at present in New Brunswick that have exercised that option.

Mr. Philip: In two years.

Ms. Swift: That is my understanding, yes.

Mr. Chairman: I do not know whether that is helpful or not.

Mr. Philip: What is interesting about that is that the argument has also been made that New Brunswick has isolated communities, which is quite

different from British Columbia, where the domino effect was a lot swifter.

Mr. Hampton: You mentioned that in Alberta the effect has been noticed even within 75 miles. Can you elaborate on your knowledge on that?

Mr. Wilshaw: Certainly. I think when you have Sunday opening in major communities, whether it be in northern Ontario in a major community relative to the size of the community that people live in or elsewhere, it can tend to become a day's outing, particularly the major shopping centres, which is a great concern for small retailers. This is what we have seen in Alberta. Edmonton has become a draw city for shoppers on a weekend, and I think this is seriously weakening the whole economic infrastructure of small communities in Alberta. I think the same effect may well take place in northern Ontario.

Mr. Hampton: One thing I have found is that, for instance, Winnipeg, Manitoba, is the closest major city to where I live. You do not have Sunday shopping in the big retail chains, but if you go into Winnipeg and shop at Simpsons, the Bay or Eaton's on a Saturday, they will transport your chesterfield, your fridge, your new stove, whatever it is, to anywhere in northwestern Ontario that is west of Thunder Bay free of charge.

Interjections.

Mr. Hampton: I did not ask them about that. That is precisely what a lot of the hardware retailers and a lot of the local merchants in communities like mine are concerned about, that a big chain that says, "We are going to go into Sunday shopping in a big way," will use those kinds of advantages simply to overcome whatever local advantages a retail merchant might have.

Mr. Chairman: I am afraid we will have to move on, Mr. Hampton.

Mr. Hampton: I believe you used up some of my time and the research officer used up some of my time.

Mr. Chairman: I am sorry, I agree. You are quite right and I overlooked that. It is the lateness of the hour. You can ask another one.

Mr. Hampton: Thank you.

On page 6 you refer to enforcement. You state in here that you would like to see a minimum fine, I believe it is, and you believe that the maximum fine is not sufficient. Is there any magic that that enforcement mechanism has to be attached to this local option? Would that enforcement mechanism, with a higher maximum fine and a minimum fine, work just as well in terms of a common pause day as reflected in the current Retail Business Holidays Act?

Mr. Wilshaw: Yes, but there are other inequities in that act.

Mr. Hampton: OK.

Mr. Wilshaw: That is the easiest answer to that, but I think what I was trying to emphasize in terms of enforcement is that, particularly in food retail—and we operate in a very competitive environment—there are a lot of dollars going through stores, particularly on a Sunday. Unless those fines are very substantial, the retailers will ignore them in order to protect their market share. You could have sort of a wildfire explosion of opening unless the fines are significant, and \$50,000 is not significant enough right now for the retail food industry. Indeed, with inflation, three, four or five years

down the road, that may well be an affordable cost of doing business on a Sunday and protecting market share.

Mr. Chairman: I think that equals, if not exceeds, the information given by Susan.

Mr. Jackson, do you wish some time?

Mr. Jackson: I considered the brief most complete. I have some recent experiences in my own jurisdiction with small retailers going under, but quite honestly, they were fighting the current law and wanting to stay open.

Mr. Wilshaw: To survive, no doubt.

Mr. Jackson: Yes, to survive, and he himself found he had to get out of the business. He is one of the largest independent grocers in Burlington, in Ontario. He was from Burlington. You probably know of it. It is a family business.

I will take your comments and incorporate them into our thinking and our amendments. Thank you very much.

Mr. Wilshaw: You are welcome.

Mr. Sola: First of all, I would like to commend you on a balanced approach. We appreciate it when you level criticism but also give credit where it is due to the bills. I am interested to find out how many of your stores are open under the present legislation.

Mr. Wilshaw: I am not sure. Numerically, I just do not know. Our membership is very broad and, of course, a number of them do fall within the present legal opening size: under 2,400 square feet. There are others that are in the tourist areas and they are opening as well. But numerically, I am afraid I do not have an answer.

It is clearly a minority. We have some 71 per cent opposed to it. As I recall, it was no more than 15 per cent at the time we did our survey. That may vary. In wintertime they may be closed. They could be in seasonal areas, in the Muskokas or somewhere.

Mr. Sola: You mention that the views of your group are strongly held. Yet when I look at the drugstore section on page 5, you seem to be arguing for a redefinition so that some members of your group could open up under the proposed legislation.

It seems to me to be a little bit of a contradiction. If they are strongly opposed to Sunday opening, why would they want some of the present membership to be able to open Sundays in competition with drugstores?

Mr. Wilshaw: The argument really was for a level playing field. We see no difference these days between a drugstore and a food store. There are drugstores now in London, for instance, with in-store bakeries and delis. Is that a drugstore? There are food stores with pharmacies in them.

So I think the definitional lines become very blurred. We are not advocating opening or closing for Sunday. We are saying, as far as pharmacies and food stores are concerned, "Make them the same size with the same employee restrictions."

Mr. Sola: So then these strongly held views are not for or against Sunday shopping, they are for a level playing field.

Mr. Wilshaw: They are both that. They are for a level playing field, and the vast majority of our retailers prefer not to open. I think what we are saying is, at the smaller level of retail service, there may be some good reasons that they should be allowed to open, as the convenience stores are open providing certain services.

Without ending up with wide-open Sunday shopping, being driven by the fact that the big guys are open, there may be an ideal size, whether it is 2,400 square feet, 5,000 or 4,000. At the small level of store size, opening could be allowed. People then have the option whether they wish to exercise it or not. They do not feel pressured into it because the big supermarkets are open.

Mr. Sola: On page 7 you mention employee protection. You say, "While existing employees have the protection to refuse continual Sunday work, there is no question that for new employees and ultimately all employees," they will eventually have to include Sunday in their work schedule. Have you found from your present membership that that is the case, or is this speculation?

Mr. Wilshaw: This is speculation. Maybe I could ask Mr. Donaldson, as a retailer from Stratford, to talk about his experiences with it.

Mr. Donaldson: Our experience in just talking with our employees is that they have said they do not want to work on Sundays. If they have to, they will take their turn. But even my key employees will not take any more than their turn. It is going to end up that my wife and son are going to be running the store each and every Sunday. The rest of the family will have to try to see us at nights during the week when they are not working.

Mr. Sola: That seems to contradict the statement in which you said, "new employees and ultimately all employees in the retail food sector will find their core employment hours to include the busiest days of the week." Above that you had mentioned that should Sundays be open, that would be your third-busiest day.

Mr. Wilshaw: What we are saying is that, if this legislative approach is adopted, particularly in regard to Bill 114, employers will make it a condition of employment that their employees work on Sunday in future. They may not be able to do that for existing employees and the government may feel that it is protecting their interests by allowing them to refuse unreasonable work, but certainly as Mr. Donaldson has said he will have to insist that his new employees regard Sundays as a core work day if this goes through.

1540

Mr. Chairman: Thank you very much. We appreciate your coming forward and sharing your views with us. It is very much appreciated that you have taken the time out of your busy schedule to come and share your thoughts with us, because they are important to this committee, as is every brief that is brought forward.

The next delegation is the Metropolitan Toronto Convention and Visitors Association, William Duron. Mr. Duron, would you be good enough to come forward and have a seat? Perhaps you will identify yourself, simply for

purposes of the recorded Hansard. You have 30 minutes within which to present your brief. You can use all or any part of that, but we would appreciate it if you would leave time out of that 30 minutes for questions from members of the committee.

METROPOLITAN TORONTO CONVENTION AND VISITORS ASSOCIATION

Mr. Duron: I will be respectful of your time. My name is William Duron. I am president of the Metropolitan Toronto Convention and Visitors Association. For purposes of brevity, I will read the brief we have submitted and then I will be very happy to entertain any questions or comments after that.

The Metropolitan Toronto Convention and Visitors Association is a not-for-profit marketing and sales organization representing some 870 companies comprising Metro Toronto's tourism industry, an industry which accounts for more than 108,000 person-years of employment throughout Metro. Our mandate is to create business for our members by attracting visitors to Toronto. Our daily life centres on marketing Metro Toronto to the world.

The convention and visitors association has gone on record several times in the past several years as being supportive of Sunday opening. We have appeared before economic development committees of the city of Toronto and North York several times.

We feel the current legislation that exists, the Retail Business Holidays Act, is both inadequate and inequitable in that only shops in certain tourist-designated areas can open on Sunday, while, for example, the country's number one tourist attraction, the Eaton Centre, is excluded. I might add that in the Bloor-Yorkville area, during the summer visitors comprise a significant portion of the shoppers who are walking the streets of Cumberland and Yorkville.

While we are unable to quantify the increase in business and employment that would result through Sunday retail sales, we do know that Metro is missing out on an excellent opportunity to generate more money for the local economy in general, and retailers in particular, from persons visiting the area on weekends. The association, as part of its 1988 marketing plan, is placing increased emphasis on the promotion of retail shopping as a lure for more out-of-town visitors.

Queen's Quay Terminal is an example of one of our member companies that has aggressively pursued the out-of-town market. With the ability to sell on Sundays, Queen's Quay, through its research, credits shoppers from outside of Metro with more than 26 per cent of its retail sales. They really do go after the business, such as motorcoach business. As well, they have a convention pass with discounts and things like that which they make available to the out-of-town market.

Similar opportunities would be available to other retailers in Metro to attract out-of-town revenues through Sunday openings. For the past two years, we have undertaken quarterly research studies on behalf of our members in order to establish certain statistical data which enable us to develop our marketing strategies to attract visitors to Metro.

We know that approximately 17.6 million visitations were made to Metro last year, generating some \$2.6 billion in revenues. The average visitor party spent \$632 for a three-night stay. Shopping accounted for 23 per cent of the

visitors' spending; that is, about \$460 million. I might add that in checking with the Treasury, you will find that tourism revenues are also major contributors to the tax coffers of the provincial government.

For the visitor to Toronto, whether that person is here on business, as a tourist or attending a convention, shopping is among the top three activities while staying in the area. Seventy-six per cent of tourists state shopping as a primary activity. Fifty-nine per cent of business travellers and 51 per cent of convention delegates stated shopping as something they did while in Metro.

Let's look at the average convention delegate. Most conventions run from Monday through Wednesday with Sunday registration. The delegates arrive Sunday, register and have the day free for leisure activities. As we mentioned earlier, more than half of all delegates surveyed identified shopping as one of the three major activities they participated in before the start of the convention, second only to dining. That means, for the majority, Sunday shopping. Interestingly, 35 per cent of convention delegates did not plan any post-convention activities, meaning that the opportunity is there for them to stay longer in Metro and continue their spending.

This illustrates the relative importance of Sunday openings to cater to the convention market, a market which in 1987 represented 539,000 delegates spending more than \$460 million.

In terms of the leisure market—this is the tourist, if you will—tourists are attracted to Metro on weekends for a variety of reasons. For many, Saturdays and Sundays are the only days available to them for travel due to work and family commitments. They are attracted by special weekend package deals offered by Metro hotels. Tourists have the time and the money to spend shopping on Sundays. As stated earlier, 76 per cent of them list shopping as a primary activity along with dining and visiting attractions. With only a selection of stores open on Sunday, weekend tourists are forced to confine one of their major activities to one day or to those areas and facilities that allow Sunday shopping.

Metro Toronto has become one of North America's top travel destinations. Tourism is our number one industry. We are attracting visitors in increasing numbers from the United States and overseas as awareness of what the destination offers grows. The association positions Metro as fun, exciting, clean, safe and sophisticated. We promote Metro Toronto through the availability of the excellent dining, shopping, arts and entertainment, sports and recreation, and first-rate attractions offered by our members.

Retail shopping, as we have stated, is a primary reason many US visitors come to Metro. The perceived high quality of shopping in Metro is further enhanced for Americans by the favourable dollar exchange rate.

With an increasing trend towards people taking more frequent but shorter vacations, travel encompassing weekends is growing. By closing retail shops on one of the two days available to weekend travellers, Metro Toronto is missing out on an opportunity to generate increased tourism revenue.

Mr. Chairman: We have approximately 25 minutes, six and a half minutes each.

Mr. Philip: I guess by way of comment, I do not doubt that I could increase tourism even more substantially by putting a casino on the islands

but that does not mean that as a politician I am going to feel that is a responsible route to go.

When I talk to my colleagues in the United States or Europe, and they invariably at least know about Toronto, never once have they mentioned shopping as an attraction as to why they come to Toronto. They come to Toronto because it has the third largest amount of English-speaking theatre and English-speaking music in the world, which in comparison to cities the size of Chicago and other cities makes it pretty wonderful, I think, as an exciting place to be. They talk about it being a safe place, a place where there are good art galleries and entertainment, where there are excellent restaurants and where you can walk around and not worry about talking to somebody on the street and have something happen to you.

I do not doubt that a number of them come here from the United States, and talking to them, invariably they say that furs are cheaper, chinaware is cheaper. Some of them may even be buying clothes now with the exchange, but I guess in terms of motivation, I do not see you getting any more tourists simply because you are going to be able to spend more on Sunday.

I wonder what you mean by "primary activity." Is a primary activity simply something like five items out of 15 that are possible to do and I do which five? But that does not motivate me to go to a place to do those. I can do them back home or I can do them on another day.

1550

Mr. Duron: You are quite right that when visitors come to Metro and other destinations, or when you and I travel to a city, we do not say we are going for this particular purpose, unless we are going to see a particular event that may be available at the time. We choose to go to a destination based on all the things that are there to see and do, the attractions that are available, be they artistic attractions, the shopping, the dining, staying in beautiful hotels. It is quite true; it is the whole package.

The research we did, though, determined that 76 per cent of the leisure visitors rated shopping as one of their primary activities while they were here, which is understandable because, when you and your wife travel to a city, one of the activities you participate in is shopping, I would imagine. At the same time, 51 per cent of business travellers said, "It's a primary activity while we are here," and 59 per cent of convention delegates said the same thing.

As far as using shopping as an inducement for other visitors is concerned, I believe that can happen. One of the main reasons for Toronto is that based on the research we are doing in terms of perceptions in the marketplace—you should hear the reputation Toronto is getting from the standpoint of fashion now. People are seeing Toronto as a fashion capital. The Festival of Fashion has helped that considerably; creating a district has helped that considerably.

We have a convention that is starting on Sunday, registering on Sunday, called the American Society of Association Executives. These 5,000 people are the trade and professional society association executives in the United States. They either decide or influence the site selection of their own individual conventions, like the American Bar Association and others. They are some of the most sophisticated travellers and a very discerning group of people. The responses we are getting in terms of, "What are you excited about

in coming to Toronto?" have most saying shopping; they cannot wait to come here for shopping.

Mr. Philip: My wife and I are just back from Halifax, and my wife certainly did do a little bit more spending than I did, but shopping on Sunday did not occur to us. We were more interested in going on the Bluenose. Sure, she bought a fairly expensive dress, but it was bought in the downtown area; as a matter of fact, in a boutique in the hotel where we were staying.

I cannot imagine somebody coming from Chicago and saying, "Oh boy, I better get on the subway and go up to North York because I want to shop there." There are all kinds of stores in the tourist areas open on Sunday in most cities that are tourist attractions like Toronto. Why do you need to open it up to the whole world? It is not going to be the whole world or the tourist world that is going to go to Rexdale or to Scarborough to shop anyway when they are staying in downtown Toronto.

Mr. Duron: Actually, Yorkdale is very aggressive in terms of going after the out-of-town market. They do promotions out of town in Buffalo and so forth. They are members of the convention and visitors association. They do place a dedicated effort in pursuing the out-of-town market.

One of the other things is that the out-of-town market is a market that really does not know the city and what the alternatives are. Generally, businesses that go after it by offering the deals, the coupons and things like that get the business. Queen's Quay Terminal is a great illustration. Before they had Sunday shopping, they did not really pursue the out-of-town market. Now up to 26 per cent of their shoppers are from out of town.

Mr. Philip: But Harbourfront is a tourist area.

Mr. Duron: No question about it, but by the same token, people from out of town do shop in Yorkdale.

Mr. Philip: One last question: you say that shopping accounted for 23 per cent of visitor spending.

Mr. Duron: Yes.

Mr. Philip: Can you compare that with, say, a city like Chicago? Do you have the figures?

Mr. Duron: No, I am sorry, I do not.

Mr. Philip: So you cannot really say that because we are closed on Sunday, as distinct from Chicago which is open on Sunday, we are necessarily getting a lower percentage of the visitor spending than a municipality—

Mr. Duron: Not knowing the percentage of visitor spending on shopping in places like Chicago or New York, I really cannot say.

Mr. Chairman: You actually go to Chicago to dance with your wife. It is a little late in the day. We have not had any lunch.

Mr. Kanter: You are excused, Mr. Chairman.

Mr. Pelissero: I have a number of questions relating to the tourist aspect. In one of your answers, and indeed in the brief, you talked about the

Eaton Centre not being a tourist designated area. Could you maybe expand on that and talk a little about the current legislation in terms of how municipalities are using it or not using it or abusing it?

Mr. Duron: I can say that right now within Metro there are certain very obvious areas—two that are the most striking—which are hubs, if you will, or destinations unto themselves and attractions unto themselves for the out-of-town market.

One is the Eaton Centre. Research which was conducted by the convention and visitors association shows 36 per cent of the shoppers in the Eaton Centre, year round, are from out of town. It seems to me that if 36 per cent of those shoppers are from out of town and it does not qualify for a tourist designation, it seems inconsistent and inequitable.

It is the same for the Bloor-Yorkville area, particularly Yorkville. I do not have the figure, but we know that a great percentage of the shoppers in that area are from out of town. Again, not being able to have the same advantage or opportunity as Chinatown and Queen's Quay Terminal is not fair.

Mr. Pelissero: In the brief itself, you do not address whether you like or support or dislike Bill 113 and Bill 114. Do you have any comments on either of those two pieces of legislation?

Mr. Duron: As you know, Metro council has already declared that it is not in support of Sunday shopping and we are partly funded by Metro.

Mr. Pelissero: Ah.

Mr. Duron: Hold on. We have gone before Metro and said, "This association is definitely in support of Sunday shopping." If it turns out that these bills or one of the bills is passed and the municipalities have the ability to allow Sunday shopping, then certainly we will be right up before Metro council offering our opinion, which we have done already.

Mr. Pelissero: Let's play out the scenario that Metro council, as now, goes on record as being opposed to Sunday shopping and decides to do basically nothing. What, in your opinion, will change from today versus Metro council deciding to do nothing within the provincial framework?

Mr. Duron: I really cannot answer that. All I can say is that we would continue to put forth the case with the facts and the figures we presented.

Mr. Pelissero: In terms of tourism in the hospitality sector, there is an exemption in terms of the one day in seven. Is that adequate?

Mr. Duron: It is too inconsistent from the standpoint of marketing. If you are going to have this opportunity available and you are going to put the marketing resources behind it—meaning the money behind it—to advertise the fact, let's not confuse the marketplace. Either we have it or we do not have it.

Mr. Pelissero: When we start talking about tourism—and as you have identified, in some cases there is no rhyme or reason one area is excluded over another area—would you not think there would be reasons, other than tourism, that a municipality might consider allowing some form of retail shopping on Sundays and other holidays for other than identifiable tourism

reasons? I am using as an example, say, Chinatown, where there is much of a multicultural or a cultural aspect, or as they have done in Thunder Bay where one Sunday in November is for individuals who are handicapped, disabled. Do you see other components that might be used in a municipality in determining whether individuals should have the opportunity to shop on Sunday?

1600

Mr. Duron: It is difficult for me to comment. All I am saying is that there is an opportunity from the standpoint of the out-of-town market. We have a population base, a consuming public here, of approximately three million people. On an annual basis, at least in 1987, that consuming population increased by 17.6 million visitations, or people coming into the community. There is an opportunity to earn more revenues from those people.

Mr. Pelissero: Not all of them American, I would think.

Mr. Duron: No.

Mr. Pelissero: Some of them may be people who travel from other parts of Ontario.

Mr. Duron: Absolutely.

Mr. Chairman: Thank you very much. We appreciate your coming forward and sharing your views with us, as we do everyone who comes before this committee.

The next group is the Labour Council of Metropolitan Toronto, Linda Torney, president. Perhaps you would come forward and be good enough to have a seat and identify yourself and the gentleman to your right.

LABOUR COUNCIL OF METROPOLITAN TORONTO

Ms. Torney: I am Linda Torney. I am the president of the Labour Council of Metropolitan Toronto.

Mr. Chairman: You do not want to hear my usual announcement? You have 30 minutes.

Ms. Torney: I would be happy to hear your usual announcement.

Mr. Chairman: Oh, all right. You have probably been here and heard it, but in any event, you have 30 minutes. Use all or part of it for your presentation, and we would appreciate it if you would leave time for questions.

Ms. Torney: Certainly. I would like to introduce Ross Sutherland, who is one of my executive assistants at the council.

First of all, I want to thank you for the opportunity to address this committee. I realize you are all at the end of a very long week and it is the first of similar weeks, so I do promise you I will be brief. I will not be taking my full time.

Mr. Philip: It is the beginning of a long weekend.

Ms. Torney: I did not say it; you did.

I think what I first want to do is to tell you a brief bit about the labour council. Our jurisdiction is Metropolitan Toronto and York region. Labour councils, of course, are the municipal arm of the central labour movement, and our labour council is actually the largest of those across the country. We represent over 40 different unions and 180,000 affiliated members.

I have explained our geographic boundaries, Metro Toronto and York region, and of course those include the towns and cities that occur individually within those boundaries.

We and our membership are part of the Ontario Federation of Labour and we have within our membership locals of other groups, such as the United Food and Commercial Workers, which have no doubt made presentations to you through the course of these meetings. I am not going to repeat what they have said. I can assure you that their position against open Sunday shopping and our position are similar.

I can also assure you that the issue of Sunday shopping has been discussed several times, both by our executive board and by our membership, so when I speak to you today, I do represent the positions of our organization.

I think the current debate on Sunday shopping really has two facets. The first question is whether the decision should be left to individual municipalities, and of course the second is, what is the nature of the decision that should be made? I am going to address first the part that deals with decisions by individual municipalities.

It is our submission that in our geographic territory, leaving it to individual municipalities simply will not work. I think anybody who drives through the Golden Horseshoe realizes it is very hard to tell where Toronto stops and Mississauga starts. Certainly, if you are a stranger in town and if you do not have a map and you are not familiar with it, you would not realize where the boundaries between Toronto and the townships of Vaughan and Markham are.

We are a large industrial area now, and we submit that if one municipality should decide to open on Sunday, the pressure on the others will be immense and that it would not be very long before that decision was taken by the bulk of the municipalities, but in the interim I think the efforts and resources of the various municipalities within that region would be spent in intermunicipal and interpolitical wrangling. I think it would be a very difficult situation for the municipalities to cope with, in terms of everything else they have on their plates. For us in Metro Toronto, it makes no sense whatsoever for the province to turn this decision over.

As far as part two of the question—the nature of the decision that the province should make—is concerned, we are totally opposed to open Sunday shopping. Our major reason is that we are committed to the quality of life of the citizens of this region. We believe, by the way, that so far we have achieved a quality of life that is superior to most cities of this size, which is not to say we are perfect, but I do think we have achieved a livable city.

One of the reasons we have done that is that we have attempted to create, within Metro and its immediate neighbours, areas where families can play together. I am referring to things like our parks, our conservation areas, Harbourfront, Ontario Place and the Toronto Islands; these are all within easy reach of the citizens, and they are within easy reach of people who cannot afford country cottages, who cannot go to resorts on weekends, who

do not have boats. We believe that open Sunday shopping jeopardizes this whole concept in two ways.

First, it eliminates a common day of rest. For us, clearly many people in this city spend Sunday as a common family day, a common day with friends. To make it necessary for large groups of people to work on Sunday is going to jeopardize that.

I think there is a secondary way it affects it. I think it will make access to those innercity and close-to-city recreational areas and facilities very difficult, just as difficult to reach on a Sunday as they are on any other day of the week. I know, certainly for myself and any of you who have taken Sunday either to drive or to use public transit through this city, it is a delight to get around. I have seen what happens in areas of other cities with open Sunday shopping. The traffic tangles on a Sunday are just as bad as they are on other days of the week.

We are a diverse city. Toronto is an area of rich and poor. It has a multitude of lifestyles. It is an area of multiculturalism. Its backbone, I believe, is its working class. I think working people do not have that escape that wealthier people may have, nor do they have the power to decide, as a corporation may do, if Sunday shopping were open, whether to work or not. In fact, a corporation can order its people to work and a corporation president can stay home if he chooses.

One of our real concerns is that people will be forced to work. I realize there is talk about passing legislation prohibiting this, but I can tell you from my past experience as a union organizer that the existence of laws like the Employment Standards Act, like the Occupational Health and Safety Act, like the Human Rights Code do not automatically mean that people do not violate those laws, because, time and again, when unions get into a situation of organizing, we find the thing that has triggered the organizing in the first place is a violation of a piece of existing legislation.

Legislation is only as good as its enforcement, and this kind of legislation would be impossible to enforce. In fact, if somebody refuses to work on Sunday and is not penalized at the time but he is passed up for a promotion at some future date, who is to say it is not as a result of his refusal to work on Sunday?

I think it is interesting that it is one of the shops in the fur industry that has been one of the primary movers for open shopping. I submit to you that people who can afford to buy a \$2,000 fur coat can probably find time during the week to do so.

Mr. Pelissero: You could not buy one at that price.

Mr. Kanter: Have you bought one lately, Mr. Pelissero?

Ms. Torney: You probably do not. I have not looked at the prices lately. I am probably way under. Fur collar, will that do? What is it?

Mr. Philip: Multiply that five times.

Ms. Torney: It shows you how often I shop for a fur coat.

I do not believe there is a great need for Sunday shopping that outweighs the increase in the hardship and stress on the lives of the

residents in this area. I think it is hard to argue that we need extra shopping for workers to be able to purchase the necessities of life, because all over Metro large grocery stores are open 24 hours a day, six days a week. So are drugstores and gas station.

Lumber yards and hardware stores often open before eight in the morning and are often open until nine or 10 at night. Many large malls are open six days a week into the evening hours. I think it would be very hard to find a case that there is any kind of a shift worker in the city who does not have access to necessity shopping on the current six days of opening.

1610

In fact, I think if you were concerned about increasing the convenience in workers' lives, what should be looked at is the accessibility of government offices and social services. It is far easier for workers to shop than it is to get access to those services.

Just in conclusion, it is up to this committee to decide whether you are going to listen to the fur dealers and the \$20,000 fur coats—is it?—

Mr. Philip: As chairman of the standing committee on public accounts, I can add and subtract.

Ms. Torney: —or listen to the working people who make up a large bulk of this city and the needs they have.

That is basically the submission I have to make to you. Of course, I would be pleased to attempt to answer any questions you may have.

Mr. Chairman: All right. Mr. Philip, about seven minutes.

Mr. Philip: Yes. I wonder if I can ask first what could be seen as an awkward or difficult question; then I will ask perhaps some easier questions afterwards and make you feel better as you are leaving.

The Hudson's Bay Co. has quoted figures from Statistics Canada, 1981, saying that approximately 50 per cent of total retail workers are now men. I have always been under the assumption, as you are in this brief, that a majority of retail workers are women. When I go into the stores in my own riding, that is the case. I do not know whether the data are collected differently or what is happening, but do you have or would you take it on yourself, if you do not want to comment today, at least to look at that figure and see whether—

Ms. Torney: At that new stuff? I have certainly not heard it and I too have difficulty believing that is correct. We will look at it, but the latest figures that we have seen show that the bulk of people employed in the department store industry are women. They may be taking into account, and I do not know, their business operations, accountants, not the office worker, but the part of their corporate structure in that count. I do not know. That could account certainly for some difference.

Mr. Philip: That may well be the case. One of the concerns I know of organized labour and members of my party and of certain economists is that we seem to be moving to some extent from unemployed to underemployed to part-time workers. An argument has been made that because of our improved labour standards over the years and laws concerning the number of hours that people

can work, Sunday shopping will actually push the numbers over just enough to increase or to make it necessary to have more part-time workers and less full-time workers. I am wondering if you have examined that as a phenomenon because that is one argument that I know was made by some labour groups to the select committee on Sunday shopping.

Ms. Torney: Yes. I have not personally examined the stats on that. Certainly, hours as hours have been increasing in more evening openings and that sort of thing, and it seems to me that the ratios of part-time to full-time workers have increased.

On a seven-days-a-week operation, it is certainly very easy for somebody to say, "This group of employees works four days a week and this group of employees works three days." Then, of course, you have a part-time workforce basically. Many of the grocery stores are operating a great deal more on part-time workers now than they used to.

Mr. Philip: One of the concerns I would have would be the number of extra grievances that may be created by this legislation and indeed may be created by Bill 114. Let me put it this way. Someone may not enforce his rights. They may express to the boss that they do not want to work on Sunday, but they may not decide to appeal under the provisions given in Bill 114. Do you see further down the line more grievances as a result of people arguing that they have been passed over for promotion solely because they proved to be less co-operative than others in working on Sunday?

Ms. Torney: Definitely. I am inclined to think that any kind of action that an employer is likely to take is not likely to be immediate if there is legislation in place. In fact, it is more likely to be action in the future. "This person was not willing to work on Sunday; therefore, I am not going to consider this person for a promotion." There is where everybody is going to have a problem because that is very difficult to prove. I think there will be a number of grievances and they will be complex.

I have done some grievance representation up to the arbitration level and that kind of grievance often results in lengthier hearings than a simple grievance dealing with, "Did you get your overtime pay or did you not?" I have seen those kinds of grievance arbitrations going to days of hearings. It will apply to that whole network as well. It is not just a number; I think it is going to be the increase in length of time.

Mr. Philip: At increased expense to employers, employees through their union and the taxpayers.

Ms. Torney: Yes.

Mr. Sutherland: If I could just add to that, one very common form of grievance now is overtime grievances. Any plant where there is regular overtime work creates grievances, and they are terrible grievances to deal with. Sunday shopping would just magnify that type of grievance.

Mr. Philip: One of the things that we have all been interested in is the result also of recent Workers' Compensation Board decisions, that is, the effect of mental health hygiene in the workplace. The argument has been made, interestingly enough by management, that this bill will actually increase the amount of tension in the workplace; that a boss will feel uptight about forcing an employee to work; other employees are going to feel stressed by the fact that some employees are refusing to work and they are co-operating and,

therefore, they are taking, if you want, the bad side of the deal; and that, generally, it will increase the amount of tension not just upward and downward, but also sideways.

Fellow trade unionists are going to be upset that John Brown wants to exercise his rights under the bill and refuses to work, and that means I have to pick up the slack and do more Sundays and that kind of thing; or that Sammy is religious and I am not and therefore Sammy gets Sunday off because the boss has decided to give in to him and make me work because I am of a different religion or something. Do you agree that this kind of legislation may increase the amount of stress both between employees at the same level and between the boss, the employer, and the employee?

Ms. Torney: Yes, I agree it will. I would take it a little further than that. I think it is going to increase. I think the very loss of a family day is going to add to the stress as well. It is a combined factor and stress does lead to illness. We know that. I think there is added stress. There is the workplace stress and there is the stress of lack of family time or of juggling schedules between families to deal with things because we have now lost the family concept of a day. I do agree with the concept that stress will increase and I think illness will as a result.

Mr. Philip: I find it interesting that companies like IBM and Air Canada are spending money to have companies that specialize—and you will notice that I am not plugging my wife's company—come in and run stress management programs, and are finding that kind of thing actually reduces time off; yet suddenly the government is creating legislation that is going to increase tension and stress and, invariably, days off work through unproductivity and illness. I guess that is a comment, not a question. I see that our deputation is agreeing with what I said.

Mr. Chairman: Miss Roberts, my eyes are starting to cross.

Miss Roberts: You are the first person who has ever been able to miss me in a yellow dress. I really appreciate your coming here so late in the afternoon. My comment to the chairman I do apologize for, but it is late in the afternoon. Of the two things that were handed out to us, I appreciate the comments that were there and the straightforwardness of those comments, your concerns and your understanding of what the situation is. You have put them very fairly and very frankly as to what you consider important.

1620

In your verbal remarks, you have indicated that you have attempted to create a very liveable city here in the Metropolitan Toronto area, and indeed you have. I am not from this area. I am from a very small town. In fact, I live on a farm outside a very small village. We too want to create liveable areas and we too do not want to add to the problems you are having with housing, by having jobs and a way of life that we can support in our area. One of the things that is so important is the right for us to make those decisions as various municipalities, things like that. That is why planning has been very important to us in the past.

I just want to make those statements to you to know that there are many people who do not have all the advantages that you have here, and we do not want to add to the problems you have here by coming into town. We want to be able to live out in the country and to continue it. You have indicated that already some grocery stores, I believe, are open 24 hours a day. I think even

in one of our towns we have two grocery stores open 24 hours a day. Does that, from your experience, set up any certain needs or special day care needs? Have you looked into that?

Ms. Torney: I think it does. I think anything that has a 24-hour operation sets up special needs for the people who are employed in those facilities. I think the same holds true for people who work in essential services, for instance, hospital workers. Hospitals do not shut down, and we recognize that. Certainly, it is going to put more pressure on child care needs to have more people working on Sunday because they may not be able to accommodate that with family arrangements. It just simply may not be possible. It may be very difficult for a sole-support parent, for instance to arrange additional child care to take care of the child on a Sunday. I suspect that all of those sort of social services networks will also be stressed by open Sunday shopping.

Miss Roberts: I believe you have indicated that this legislation would not create any new jobs. Is that part of your theory with respect to this?

Ms. Torney: I do not believe it will create new jobs. It may take full-time jobs and split them into part-time jobs, so that if you want, you can then say, "We have created two part-time jobs," but it will not create full-time employment, in my estimation.

Miss Roberts: In what sector?

Ms. Torney: I do not think it will create it in any sector. I think what you are talking about doing is whether such things as shopping facilities should be open on Sundays. People have X amount of dollars to spend. It does not matter whether they could do their grocery shopping on a Saturday, Friday or whatever; they are still going to spend X amount of money on groceries. I do not see how it can be adding a lot of money to the economy.

Miss Roberts: If it is not going to be creating new jobs, because it is my understanding that a lot of the retail sector is part-time right now, do you not think instead of somebody who is trying to live on 20 hours a week will now have 25 hours a week to live on? Do you not think that might be a consideration?

Ms. Torney: No, because in the labour movement we think part-time is overused now. Simply to increase the number of part-time hours is not the answer. I know it is not a subject for this committee, but that whole topic should be addressed too of the erosion of full-time jobs into part-time jobs. That is a whole other area of concern we have.

Miss Roberts: And it is a very valid one because that is the one concern I have. It may take some part-times and make them full-time for a period of time. Thank you very much. I do not want to delay the committee any further.

Mr. Chairman: Is that it? Thank you very much. I appreciate your coming forward and staying around with us for as long as we have been here. We are most appreciative. I do not believe there are any housekeeping items or anything, so we will see you all here on Monday morning at 10 o'clock.

The committee adjourned at 4:24 p.m.

CA 20N
XC 14
- 578

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT

MONDAY, AUGUST 15, 1988



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Philip, Ed (Etobicoke-Rexdale NDP)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

Ballinger, William G. (Durham-York L) for Ms. Poole

Farnan, Michael (Cambridge NDP) for Mr. Hampton

Marland, Margaret (Mississauga South PC) for Mr. Sterling

McGuinty, Dalton J. (Ottawa South L) for Mr. Chiarelli

Reville, David (Riverdale NDP) for Mr. Philip

Clerk: Deller, Deborah

Clerk pro tem: Manikel, Tannis

Staff:

Swift, Susan, Research Officer, Legislative Research Service

Witnesses/Témoins:

From Canadian Tire Associate Stores:

Hayhurst, George, Owner, Canadian Tire Associate Store, 2681 Danforth Avenue

Individual Presentations/Présentation individuelle:

Musiol, Renée

Reeves, James

Bowie, Ian C., Senior Pastor, Churchill Heights Baptist Church

From the Town of Aurora:

Timpson, George, Deputy Mayor

Individual Presentation:

Rabba, Jack

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday, August 15, 1988

The committee met at 10:07 a.m. in room 151.

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT
(continued)

Consideration of Bill 113, An Act to amend the Retail Business Holidays Act, and Bill 114, an Act to amend the Employment Standards Act.

Mr. Chairman: I do not have a gavel. I recognize a quorum, though. First of all, I ask the members to take their seats and welcome all the new participants. The first delegation we have this morning is Renée Musiol. Would you like to come forward, please? Just have a seat right up here in any one of the three or four seats, if you would. Sit down, please, and then you can speak into the microphone.

Perhaps you would be good enough to identify yourself verbally through the microphone for purposes of Hansard, as all of this is being recorded on Hansard, and then you have 20 minutes. You can use all of that time for your presentation or any part of it. It would be preferable if you left some time for the members to be able to ask you questions. Would you like to proceed, Ms. Musiol?

Ms. Musiol: I do not understand English very well.

Mr. Chairman: What language do you speak?

Ms. Musiol: I will speak French.

Mr. Chairman: Do we have a plug-in that we could get? I am going to have a little difficulty.

Ms. Musiol: I asked the secretary. I phoned and she told me it would be no problem to speak in French.

Mr. Chairman: OK, we will see if we can set that up.

Mr. McGuinty, are you fairly fluent en français?

Mr. McGuinty: No. Not enough to do justice to a presentation.

Mr. Chairman: Who is fluent en français? Just a moment, and we will get a translator.

While we are waiting to get the technical items arranged here, we will go ahead with Canadian Tire, with G. Hayhurst. Is Mr. Hayhurst here? Would you like to step forward and have a seat? We want Hansard to record whatever you say. Will you identify yourself for purposes of Hansard? You have 20 minutes for your presentation. Use all or any part of that for your presentation, but

as I said before, we would prefer to have an opportunity for some of the members to ask you questions. Perhaps you would like to proceed.

CANADIAN TIRE

Mr. Hayhurst: My name is George Hayhurst. I own a Canadian Tire associate store at 2681 Danforth Avenue in Toronto. I am here representing 25 Canadian Tire stores in our city. I am not likely to tell you anything you have not heard before, but I hope to throw a little different angle on the situation and try to give you our thoughts on the open Sunday situation in our province.

We represent 3,000 vote-casting employees and employers in our city and our sales in this area are over \$300 million. Our group is unanimously and strongly opposed to Sunday shopping in Ontario and in the city of Toronto and we feel the government should not turn this issue over to the municipalities.

Why do you think we say this? No store owner or store employee wants to be open on Sunday. They do not want to be open on Saturdays. They do not want to be open nights, for that matter. We would like to be open nine to five, like the rest of the businesses in this province.

Why is it done? We are open nights and Saturdays, and those who would like to be on Sundays, because of the competitive nature of business. You cannot afford to stay closed if your competition is open. That is a fairly common fact; I think everybody is aware of this.

The biggest problem with being open other than nine to five, in particular on Saturdays and most especially on Sundays, is that you cannot find anybody to work. Nobody wants to work on Sundays. They are all looking for jobs that do not require a schedule other than nine to five. When I mention Sunday shopping to any of my staff, they give me that, "You've got to be kidding," look and say, "I'll see you later." There is no way they are going to work on a Sunday.

In particular, we have a large problem with the supervisory staff, the ones you really need to have there. We have done a survey in our store and there was not one person who said he would like to work on Sundays. Even the students, who traditionally work the evenings and the Saturdays, said: "We'd like to have Sunday off. We have families too. We have to study. We have other things we would like to do."

That is your biggest problem. In today's labour market, especially in Toronto and southwestern Ontario, wage rates are a factor in hiring somebody, but the rest of the work package is very important too. Sunday hours are not an appealing situation for people. They are all family people and they do not want to work on Sundays. I know one supervisor, one manager in particular—and you are looking at him—who does not want to work on Sundays. I have not found anybody yet in my building, of the 110 people who work there, who indicates he would like to be there.

I think you are all aware of the staff shortage situation and the labour problems we have in Ontario. It is without a doubt the most pressing and most difficult situation for every store owner, every business owner in this area. You cannot find anybody to work. There is a huge shortage of labour, skilled labour in particular. You cannot find them. In trying to suggest to people they are going to have to come in and work on Sundays when there are many

alternative opportunities in similar types of industries paying similar kinds of wages, you run into a real roadblock.

There is no question in my mind that it will increase costs; therefore, prices will go up as well. Sales will not go up. There is no question in my mind that there is a certain disposable income people have and whether we are open six days a week or seven days a week, these people are not going to spend any more money. Certainly, initially, if you open on a Sunday, you will see a slight blip in the sales, but after that they will even out and your sales will be the same for the seven-day period as they were for a six-day period. But there is no question that your costs are going to go up. You are going to have increased labour and overhead costs.

I can factually support this because a friend of mine owns a Canadian Tire store in Edmonton where, as I think most of you people know, they have been open for a number of years on Sundays. Our sales, when they started to open up, were about the same, give or take \$100,000 on a \$12-million base. Four years later, my sales are higher than his by 10 per cent, despite the fact that he is open seven days a week and we are open only six days.

Granted, you cannot solely determine what the sales situation is going to be like by the days you are open, but even taking into account the normal average sales increase in Ontario versus Alberta, and Alberta's economy is a little difficult, my sales are still five per cent higher than his on the seven-day basis he is operating under. His total overall operating costs, by the way, have gone 17 per cent higher than mine have. I think that is a fairly good argument to indicate that you are not going to get your sales to go up, especially if everybody else is open. Then it is the same situation all over again.

I suggest that prices will go up as well, that the only way we can continue to be profitable is to raise prices. Will consumers want to blame the Liberal government for the prices that will go up? I suggest to you that they will. And why not? It will be your fault if you pass these bills.

Leaving the option to local authorities will give rise to chaos in the marketplace. When North York and its indomitable mayor, Mr. Lastman, open up, can Mississauga or Toronto be far behind? I think not. If the legislation is province-wide and made by a caring and pragmatic provincial government, then all communities must abide by it in the same way they do the speed limit signs on our highways. How would you like it if we had 10 different speed limits on Highway 401 between Oshawa and Oakville? It would be somewhat confusing, to say the least, and I suggest that is the same type of thing we would be looking at if you had 10 different municipalities deciding when they were going to open up their stores.

You may be wondering why Canadian Tire would want to be closed and The Bay, Simpsons and Zellers would want to stay open. I suggest to you that The Bay, Simpsons and Zellers do not want to stay open on Sunday. Mr. Agnew, their spokesman, does not want to work on Sunday. I suggest to you that he would not work on Sunday whether they were open or not, but he does want uniformity in the laws.

Paul Magder and National Sports Centres should also be made to close on Sundays. That is what The Bay is talking about. They do not want to be open on Sundays but they certainly do not want their competition, however small it is and however close-knit it is, to get the advantage on them. That is why they are pressing for it. What they are really saying to you people is: "Make a law

everybody is going to stick by. Decide whether you want Mac's Convenience Stores and Becker Milk and a few drugstores open, and let these other guys close."

If they are going to stay open, why should Paul Magder and National Sports Centre be open and he has to stay closed? There is no question he is going to lose sales in that particular situation. I do not blame him and I would agree with him 100 per cent, but I think if you were to question Mr. Agnew, staying open on Sundays is not what he wants to do, because he has the same problems as the rest of us trying to find people to work and he knows very well that his sales are not going to increase. But they certainly will not increase if he has competition that is staying open.

1020

Decide on the essential services and close the rest of the stores for a common day of rest. Only the provincial government can do this with one strong law. You cannot leave this to the municipalities to decide for themselves. Do not opt out of your responsibility. Revamp the present law and make good sound rules and then prosecute those who break the law, but do not throw it wide open, as this bill will surely do.

I have only touched on the quality-of-life issue, but it is a real issue here. Whether you are religious or not, attend church or not, it is recognized that Sunday is the day of rest that you spend with your family. A hard-working, separated father of three whom I know very well—I look at him in the morning every day—can see his children, effectively, only on Sundays. If he had to work as well and his store were open, how do you think his family life is going to suffer? I suggest to you, considerably.

You can bet your life there are all kinds of people who would be affected by this same situation, whether they be in the retail trade, policemen, day care services, cash register repair people—the list is endless. Many, many people are going to be affected by the open Sunday situation, not just the people who work in retail, and there are many thousands of those.

Open Sundays will destroy the quality of life for many people in this province. We certainly do not need the jobs it could create. We cannot fill the jobs we have now. Anybody who is looking in the paper every morning, in the Toronto Sun or the Toronto Star, sees thousands and thousands of jobs going unclaimed, so if you are suggesting we are going to create jobs by this, that is certainly a reason that is totally ridiculous. We need more people to fill the jobs we already have. We do not need to create any more.

It is a regressive step and not a progressive one at all. Ask the Albertans how successful their economy has been with wide-open Sunday shopping.

Nobody wants it. Sure, there are some consumers, you and I and a few other people, who would like to go and shop on Sundays the odd time, would like to buy a tire or an exhaust system, as this gentleman indicated. Maybe he cannot do it any other day of the week because he is working too hard.

Mr. Cureatz: Too busy.

Mr. Hayhurst: He is too busy. He cannot get there at night. He works until 10 or 12 at night.

But I suggest to you that most people could survive very nicely, as we have for many, many years in the situation where we are open every night of the week, in most cases, and all day Saturday from nine to six, and in many cases, Saturdays from nine to nine. I think anybody who says he cannot do his shopping during those 72 or 76 hours of the week when most stores are open is looking for some reason that is not there. There is nobody who cannot do that.

Certainly, it would be convenient for a few people, but ask people how many of them would like to work on Sundays and I suggest you would find the answer would be about one per cent. Nobody wants to work on Sundays.

No retailer wants it. They just want one fair application of the law. This government, as it is duly elected, if it is responsible, should not want it. It should set out the law for the province and not shift the responsibility to the municipalities. It is the responsibility of the provincial government to decide how this is going to be applied on a province-wide basis.

I urge you strongly to repeal Bill 113 and Bill 114 and find another method of making life and shopping better for the people and the voters of Ontario. I thank you very much for listening to my presentation.

Mr. Chairman: Thank you, Mr. Hayhurst. We have about eight minutes left, so that will be about two and a half minutes a caucus.

Mr. Cureatz: I appreciate your presentation. It is a little difficult. We politicians, after a weekend of carrying around in one's riding and smiling and shaking hands, worried about the federal election—

Mr. Hayhurst: That's tough?

Mr. Cureatz: Tough to get cranked up for Monday morning.

Mr. Ballinger: I hope you are speaking for yourself.

Mr. Cureatz: As a matter of fact, I am; I always do, but even then I cause problems when I speak.

I have just one question, and that is that you did centre in—of course, I am a rather new and humble member of this committee with a quiet background, and I might be covering old ground. Of course, we will probably be doing that for the next few weeks anyway.

Mr. Farnan: Your two minutes are up.

Mr. Cureatz: Your concentration on centering in on the fact that it should not be left to the municipalities and should be in provincial hands. If the legislation is passed, is your organization contemplating doing some strenuous lobbying of municipal politicians across the province, and is that why you are not that anxious to have it at the municipal level, because it is going to be a heck of a lot of work to get that all organized?

Mr. Hayhurst: It would be a lot of work, for sure. I think we feel as many other retailers do. Even The Bay says it will take it all the way to the Supreme Court. We would be willing to put our money where our mouth is, and our time and our efforts, to lobby the municipalities if that is what is necessary. We do not feel that is necessary. We feel that the onus should fall on the provincial government to make this law an appropriate and a proper one

for the people of Ontario. But if that is what we are going to have to do, we are going to have to do it, because I do not want to stay open on Sunday. Neither do any of my colleagues and neither do any of my employees.

Mr. Ballinger: Just a point of information about myself. I am a retailer and a former mayor of a municipality, and some of the comments you made I found very interesting. What we are talking about here is Bill 113, which is a specific bill. Most of your presentation, at least as I viewed it, was based on the premise that Ontario is going to have wide-open Sunday shopping, and that certainly is not the intent of the bill. I think there are many presumptions being made in relation to this bill that are just simply not there.

Mr. Hayhurst: I guess that is subject to interpretation. I am firmly of the opinion, and my colleagues are as well, all of them, that if you leave it up to the municipalities, you cannot have North York being open and Toronto or East York being closed. The competition situation I mentioned to you is really all prevalent in this deal. If there is a store open, let's say a Canadian Tire store in Scarborough, and it is two miles away from me—in fact, there are three of them there—and I am in the city of Toronto and I have to stay closed because of the way the municipal law set it up, you can bet your life I am going to lose a lot of sales.

Mr. Ballinger: Let me ask you a couple of questions about the actual contents of the bill that relate to who will decide. One section of the bill relates that the regional levels will decide. You may not be aware, but currently Peel, Durham and York, the three surrounding regions of Metro, have formally passed resolutions that state they will not support wide-open Sunday shopping as it relates to the bill; that has already been settled. It will not be decided by Scarborough and it will not be decided by North York. It will be decided at the upper-tier level. At least from my understanding of what is happening with Metro, I presume that the same thing will happen, that a resolution will be passed.

Mr. Hayhurst: I do not know that we know that yet and I just suggest to you that already we have all kinds of retailers open on Sundays who probably should not be, National Sports Centre being one of them, situated at the corner of Yonge and Sheppard. How they manage to stay open is beyond me, and they have been doing it for years. I think you will find that somehow or other there will be some municipal governments that will opt for Sunday shopping; they will be very close to another municipal government, even a couple of miles away, and that is going to force the other one to stay open too, because at that particular time if I am losing sales at a fairly dramatic rate to a neighbouring store or neighbouring group of stores, then even though I do not want to stay open on Sunday, can I afford to see my business go down the drain? I know what you are trying to tell me. You are saying it will not happen that way, but I suggest to you it will. None of us really knows.

Mr. Farnan: I was very interested in the focus you gave in terms of the pressure being put on people to open on Sunday. I think that is critical. It would appear that the Liberal government, if what they are saying— They were saying last week that this is Sunday closing legislation. Would you not think there is a much easier way to go about closing than the process the Liberal government is putting us through right now?

Mr. Hayhurst: I would think so: Just tell everybody he has to stay closed and make an exception, perhaps, for a milk store or a drugstore if that is the way they see fit.

1030

Mr. Farnan: If that is really what they want, that would be the way to go. Basically, I think what we have is the government saying, "It is a Sunday closing issue," and telling its members in a letter from the Solicitor General (Mrs. Smith) that whenever you are speaking publicly, "This is of particular importance in terms of alleviating the misconception that we are implying wide-open Sunday shopping."

If the government does not want to imply wide-open Sunday shopping and if the government really is interested in fairness—you talked about how if there were fairness, we would not have this issue—your group would be prepared to work with the government to bring some more fairness into the current legislation rather than go through this tremendous exercise of disruption of the province.

Mr. Hayhurst: Absolutely. We would love to see a fair application of the rules so that when you decide that somebody is going to be closed or a group of stores is going to be closed, then it is closed.

Mr. Farnan: I have one last question. Would you like to believe that, given all the people who come here expressing very sensible views, just as you have, the government might listen?

Mr. Hayhurst: I would surely like to think so.

Mr. Farnan: That, indeed, would be wonderful.

Mr. Hayhurst: That would be wonderful.

Mr. Chairman: I am afraid, Mr. Farnan, that we have reached that point. Thank you very much, Mr. Hayhurst. I appreciate your coming forward and sharing your views with us. We are certainly interested in them, I can assure you of that. I am sorry for the briefness in time, but we are on a very tight schedule. We have a number of people throughout the province who want to meet with us.

Mr. Hayhurst: Thank you very much for listening to my presentation. I appreciate it.

Mr. Chairman: Madame Musiol, could you come forward?

MME RENEE MUSIOL

Ms. Musiol: I am sorry for the inconvenience I am causing you. I am sure you will understand me.

Mr. Chairman: No inconvenience whatsoever.

Mme Musiol: Mesdames et messieurs, les membres de la Législature, ce que nous venons demander ici à notre gouvernement, c'est qu'il ait le courage de régler lui-même la question de l'ouverture des magasins le dimanche et de ne pas se décharger de cette responsabilité sur les municipalités, ce qui pourrait créer de la confusion, du ressentiment et des injustices.

Ouvrir les magasins sept jours par semaine, où serait le profit? Nous, les consommateurs, nous assurons la direction des magasins que nos poches

contiendront la même somme à dépenser, que les magasins soient ouverts le dimanche ou non. Ce sont les frais d'exploitation des marchands qui risqueraient d'augmenter, et pas leurs ventes.

Venons-en au point principal. Beaucoup d'Ontariens jouissent du repos dominical au sein de leur famille. Pourquoi refuser ce privilège à toute une classe de modestes citoyens, petits commerçants, vendeurs et vendeuses de magasins? Eux aussi désirent jouir, au moins un jour par semaine, de la vie de famille afin de pouvoir consacrer un peu de leur temps et de leur attention à leurs enfants. A cause de l'organisation de la société, cela, bien sûr, n'est possible que le dimanche.

La dernière raison, enfin, n'est pas la moins importante. Il s'agit de la sanctification du dimanche, cher au coeur de nombreux croyants et qui trouve son droit de cité dans le préambule de notre constitution canadienne.

Merci.

M. le Président: Merci beaucoup.

We have approximately 18 minutes left, six each. I do not see any hands yet. Mr. Cureatz, did you have your hand up? Mr. Reville. That is all I have at the moment.

Mr. Cureatz: Are we ready to start, Mr. Chairman?

Mr. Chairman: I believe so.

Mr. Cureatz: Does this mean my time is ticking?

Mr. Chairman: No, it does not. Mr. Cureatz, do not worry about it.

Mr. Farnan: Please, God, yes.

Mr. Cureatz: Ms. Hart, are you just waking up now? Look at the red flower you have in your lapel. Now are we ready, Mr. Chairperson?

Mr. Chairman: We are ready.

Mr. Cureatz: Renée, I am over here on your far right. Wonderful. I am interested in a little bit more of your background. You indicated you were a private citizen. Could you tell us your home area in Ontario?

Mme Musiol: Je viens d'Oakville mais, originairement, je viens de la partie française de la Suisse.

Mr. Cureatz: How long have you lived in Oakville?

Mme Musiol: Vingt ans, et au Canada, 33 ans.

Mr. Cureatz: I have some working familiarity with the town of Oakville. Do you feel that the merchants along the main street of Oakville, along Highway 2, would be receptive to a decision by the local municipality to allow Sunday shopping?

Mme Musiol: J'en connais plusieurs qui y sont opposés. Je ne vois pas qui aurait vraiment intérêt à cette ouverture. Je sais que, pour plusieurs, ce serait une catastrophe.

Mr. Cureatz: You have lived in your community for 30 years. I trust that your neighbours have a high regard for your long-term residence in Oakville, and I am wondering, are you familiar with other French-speaking citizens in Oakville?

Mme Musiol: Quelques-uns. Il n'y en a pas beaucoup à Oakville, d'ailleurs, mais nous avons surtout comme voisins des Anglais, et beaucoup d'entre eux partagent mon opinion. Je n'ai vraiment entendu personne qui soit en faveur de l'ouverture des magasins le dimanche, que ce soient des petits commerçants, des particuliers, des gens qui travaillent dans les magasins ou simplement des gens qui s'intéressent au bien-être de la société, des groupes religieux: tous sont opposés à l'ouverture des magasins le dimanche.

Mr. Cureatz: That is the point I am trying to bring out. I appreciate your response that, from a community in that part of Ontario which is probably more anglophone than francophone, you are coming forward from a minority group in that portion of Ontario expressing your concerns about this legislation. I guess the committee will be experiencing, as we are about to travel the province, that this kind of legislation crosses the whole spectrum of citizens in Ontario, which is so evident with your coming forward this morning. I have concluded my question.

1040

Mr. Chairman: You are right on time. Mr. Reville, Mr. Farnan indicated a wish to use some of the time, so maybe you could save a bit of it for him.

Mr. Reville: Madame Musiol, I want to thank you for coming to the committee today. It is particularly useful for us to hear the views of individuals as well as those who represent large groups or particular groups. I wonder if you would expand on the reasons you think the province should retain control over the question of Sunday shopping and why you think it is inappropriate for the local option, that is, for the municipalities to make their individual decisions.

Mme Musiol: Mais il me semble que c'est enfantin. Si vous avez à peine une expérience de la vie, vous saurez bien que chaque municipalité agira d'une façon différente pour les magasins; ce serait une confusion pour tout le monde. Le magasin ici sera ouvert et celui qui est à dix mètres plus loin, parce que c'est une autre municipalité, sera fermé. Alors, qu'est-ce qu'il en résultera? Des jalousies, des contestations, des difficultés.

Non, c'est impossible, c'est une loi qui doit absolument être provinciale et le gouvernement doit avoir le courage de gouverner. Il est là pour ça, non? Il me semble que c'est un manque de responsabilité, c'est se laver les mains à la Ponce Pilate que de dire aux municipalités: <Prenez sur vous la responsabilité d'être impopulaires>.

Mr. Reville: I cannot imagine anybody being able to put it more eloquently than that, and I will turn it over to Mr. Farnan. Pontius Pilates.

Mr. Ballinger: You are so kind.

Mr. Farnan: In your presentation you talked about the common pause day as a day of prayer, and prayer is not just an individual exercise but one that is done in a congregation or in a community. Would you elaborate on your concept of the day of prayer and how it may be affected by such legislation as is proposed?

Mme Musiol: Mais naturellement, si les gens doivent travailler, comment pourront-ils se rendre à leur église? C'est impossible. Ou bien ils le feront la veille ou bien il le feront, n'est-ce pas, pendant la semaine; mais ils ne le feront pas au sein de leur famille, de leurs amis. Ils se sentiront isolés et ils n'auront pas ce sentiment de communion, ce sentiment d'appartenir à la société, d'être avec les autres.

Dans notre société actuelle, tant de gens ont déjà le sentiment d'être solitaires, isolés. Cette perturbation de la vie sociale ajoutera encore à cette solitude. Il me semble que cela, ce n'est pas une question politique mais une question sociale, humaine, et les questions humaines doivent primer les questions économiques si on veut une société qui soit stable et qui soit heureuse.

Mr. Farnan: To follow up on this issue, in Massachusetts, where they have introduced open shopping legislation, they have made some accommodations by having stores open from I think it is 12 o'clock to 6 o'clock during the day. They justify this by saying they are making compromises with the religious groups in the community so they can worship in the morning and then head off merrily to work in the afternoon. Massachusetts to some extent is being held up as a model for Ontario in accepting this kind of legislation. How would you react to the government proceeding with this legislation and making that sort of compromise for religious groups?

Mme Musiol: C'est un petit peu mieux que rien, mais c'est loin d'être suffisant. D'abord, beaucoup de groupes religieux ont leurs réunions, des fois, à dix heures, à onze heures, et ensuite ils ont des réunions sociales, des dîners. De pouvoir être libre jusqu'à dix heures le dimanche, c'est bien maigre, c'est insuffisant.

Mr. Chairman: Mr. Farnan, I am sorry. We are going to have to move on.

Mr. Farnan: I have completed my questions.

M. McGuinty: Merci, Madame. Comprenez-vous la différence entre la question du dimanche ouvert et la décision prise par les municipalités? Est-il inévitable que la décision prise par les municipalités soit la même chose que le dimanche ouvert?

Mme Musiol: Je n'ai pas très bien compris votre question.

M. McGuinty: Est-il inévitable que la décision prise par les municipalités soit la même chose que le dimanche ouvert?

I learned my French from Bernard Grandmaitre, so it might not be all that good. Does giving the decision to the municipalities inevitably lead to open Sundays? Comprenez-vous?

Mme Musiol: Enfin, je n'ai pas trop d'expérience en politique, disons. Je ne pense pas, mais justement, ce sera l'inégalité parce que les uns ouvriront et les autres fermeront. De là viendront toutes les difficultés.

M. McGuinty: Oui. C'est tout. I am resting here.

Mr. Kanter: Are you familiar with that part of the bill which says that most stores in Ontario will continue to stay closed? Are you familiar with that? Do you realize that our legislation says that across Ontario stores

will have to stay closed on Sunday? Are you aware of that? Do you know that? Are you familiar with that part of the bill?

Mme Musiol: Je ne suis pas très au courant, j'entends. Que veut-on changer, exactement? Quels sont les changements proposés? Actuellement, les magasins sont fermés, non?

Mr. Kanter: That is a very good question and that is why I wanted to ask that. The law which we are suggesting keeps most stores closed on Sunday. We are changing two things. First, we are changing the enforcement, because, as one of the speakers before you said, right now there are some stores which are open illegally. We are making it easier for the government to charge them, to increase the fine, and we are making it harder for them to stay open.

Let me stop there, and perhaps that could be translated.

1050

Mme Musiol: Oui, mais vous voulez donner aux municipalités le droit de légiférer. Alors, les magasins ne seront pas fermés dans toute la province. Certaines municipalités permettront d'ouvrir et d'autres obligeront à fermer. Alors, il me semble que c'est un pas en arrière.

Mr. Kanter: With respect to the municipal option that we have been talking about, are you aware that right now there are over 100 municipalities that are open, wholly or in part? Parts of Toronto, parts of Mississauga, parts of Markham are open on Sunday right now. Are you familiar with those areas, are you aware of those areas?

Mme Musiol: Non, je ne les connais pas. Mais pourquoi alors le monsieur qui m'a précédée s'est-il élevé si fortement contre la nouvelle loi? C'est qu'elle permettra à plus de magasins d'être ouverts, non?

Mr. Kanter: I think much of the discussion between people coming before us in this committee has been about the reason that stores should be open. Right now the legislation says it should be because of tourism, and we have found that some places are open right now perhaps for other reasons. In the city of Toronto, for example, there is an area that is open—Chinatown West—with many Chinese people who shop there, not necessarily tourists, many of them residents of Toronto.

It is our feeling that if a city or a regional area wants to be open, there may be good reasons for being so. They may be in a tourist area, for example, with many tourists, or they may indeed have some other valid reason. Our view as a government is that there may be a different situation perhaps in the northwestern part of the province or the northeastern part of the province than there is here in Toronto and that people who live in that area are better able to decide whether or not stores should be open, just as they do if they should be open late at night or perhaps 24 hours a day.

I just want to try to explain to you some of the reasoning behind our legislation, because I appreciate it is quite complicated and some people may not realize that it is just a refinement perhaps, an improvement perhaps, but not a very big change from the way the law now reads.

Mr. Chairman: I think we will let Mme Musiol comment briefly on that if she wishes, but that will be the end of the time we have. Do you have any comment on what Mr. Kanter has just said to you?

Mme Musiol: Moi-même? Je pense que là où il y a du tourisme, à certains endroits stratégiques, les magasins ont toujours été ouverts et ils le resteront. Mais pour le reste, je pense que le gouvernement doit prendre une décision ferme. En français on dit: on ne peut pas satisfaire tout le monde et son père. Il faut que le gouvernement prenne une décision qui soit favorable à la majorité. La majorité des Ontariens veulent que les magasins soient fermés le dimanche. C'est tout simple. Nous demandons à notre gouvernement de gouverner. Voilà, c'est pourquoi il a été élu.

Mr. Reville: Touché, Mr. Kanter.

Mr. Chairman: Thank you very much, merci beaucoup. We appreciate your coming forward very much. I feel so limited not being able to communicate with you, but thank you for your views.

Mr. Reville: I would think you had another reason for that feeling too, Mr. Chairman.

Mr. Chairman: The next delegation is that of Jim Reeves. Is Mr. Reeves here? Parlez-vous anglais?

Mr. Reeves: Oui, je parle anglais.

Mr. Chairman: All right. I just thought to ask before we put these headsets away. You have 20 minutes, Mr. Reeves. We would like you to identify yourself for purposes of Hansard. You can use any or all of that 20 minutes for your brief, if you wish. I notice you have given us something. I am not sure whether it is a test or a brief, but we would appreciate it if you would leave some time for the members to ask questions. Would you like to proceed?

JIM REEVES

Mr. Reeves: Thank you for hearing me. The one page you have in front of you is an outline of some of the topics I am going to cover. If during my presentation and discussion you feel any points I make are relevant, significant and can in any way change the current thinking of the government, please note them under those headings and use them in your synopsis and summary when you get to the end.

My name is Jim Reeves. I operate a retail store with approximately 40 employees. I am also associated with many other dealers who run the same type of operation, but I am here representing my employees and myself, being one of those employees.

The reason I am representing myself is that my situation is unique in that I am from a recreational area that can open on Sundays, whereas the rest of my associates are in surrounding stores around Toronto; they cannot open on Sundays. So I have experience of Sunday opening and my staff members have experience. I would like to relate that to you as part of this presentation.

My personal background is that I have worked with large corporations. I have been used to a nominal five-day week. When I made the decision to go into retailing 13 years ago, I then accepted that I would be working six days a week. I hope I will continue to have my store open six days a week and not be forced into more days.

The area I am retailing in is a recreational area. It is one hour's drive north of Metropolitan Toronto. Therefore, if any of the stores of any size wish to open on Sundays, they can open on Sundays.

I am now on the need for Sunday services. The philosophy seems to be that if stores are open, people will shop; therefore, there is a need for the service. That seems to be the philosophy that is running towards opening stores on Sunday.

I work on the retail floor. It is usually late afternoon when I get off to do my work in the office. If I want to contact governments, it is very difficult to get them after five o'clock. If government offices were open after five, then I would be contacting them and doing my business with them then. So there is a need for governments, but they do not open, because it is not economical or because the employees do not want it.

Another area where there is a need is in retailing. If I am in there at 7:45 a.m., I get calls to see if the store is open. If I am in at 10 p.m., I get calls to see if the store is open. If I am in on Sunday, I get calls. So the public's demand for services and use of services is insatiable. You could be open 24 hours a day and you will continue to get people calling.

What one then has to balance is what is good for society as a whole. As a whole, one looks at both the shoppers and the employees, the people most likely affected.

Here is a good example of where government does put in some restraint. When I was coming here this morning, most of the highway had an 80-kilometre-an-hour speed limit. The government has deemed that 80 kilometres is good for our society. I do not think anyone was driving at 80 kilometres this morning coming into work. When you are out on the highway, how many of you go over 80 kilometres an hour? Government makes decisions for the betterment of society. One of those is that we should drive at 80 kilometres in certain areas.

Another one that would benefit society would be to keep Sunday as a separate, unique day from the rest of the days of the week. It is government's job to do that and to evaluate the pros and cons. With the experience I have had, I intend to speak on how it affects both my staff and myself to be open on Sunday.

We are now on the experience of Sunday opening. In our area the only stores that were open were convenience stores. Last year a new hardware store came into town and the proprietor competed directly with probably 70 per cent of the line of merchandise I carried. He started opening on Sunday. He was the new fellow on the block with a new store. He wanted to build up his traffic and he opened on Sunday. I matched him and we both opened on Sunday during the summers of last year.

1100

The reason for opening was not to get more sales and not so my staff could have more money when they were working; the reason was to protect my long-term interest in my retail store. If I allow traffic to go to this other retailer during the time he is open, I am losing a very valuable long-term asset. We spend lots of money advertising and trying to get people into our stores. If we allow someone to offer an extra service and somehow draw people away from us, it will, in the long term, affect the viability of the operation and the potential expansion and employment of the people we hire. Therefore, the reason for matching it was for long-term viability. It was not for a short-term gain.

As far as getting staff for Sunday was concerned, it was quite difficult. In fact, it was very difficult. Not even the students, who one would think would like the extra money and would like to work on Sunday, wanted to work on Sunday. We had a general discussion with the staff and we eventually came up with some sort of schedule of people we would get in to work on Sunday, but there was no willingness and there was no keenness for them to earn extra money by working on Sunday.

Probably one of the reasons there was not an interest in working on Sunday is that since we are a rural and recreational area, all my staff, except two office staff, work on Saturdays. Therefore, Saturday is a day when perhaps a lot of other people are off and families may wish to visit from the city, but they cannot do it on Saturday, because everyone is working. Therefore, Sunday tends to be a day when extended family and friends come from the city to our area to visit. What do you think the effect would be if we were working on Sunday as well as Saturday, if the staff were required to work on Sunday? When their friends and extended family came to visit them, would that improve their quality of life? Would it do anything for the quality of life? It certainly would degrade it. I think that is a fact. It has been talked about and suggested, but I am telling you it is a fact. It is not a supposition.

Two of the things which came out of our Sunday opening were, first, that the so-called domino theory is not a theory. The domino theory is really the domino effect; it is a fact. Because we spend so much money building our markets, we then have to protect them. If someone next door or close to us infringes on that market, we will react to protect that market. Therefore, the so-called domino theory will become effective and, over a period of time, one will begin to get wide-open Sunday throughout Ontario.

You ladies and gentlemen on the committee are having difficulty deciding exactly what should go into this legislation. Can you imagine what each municipality would have to decide if it were faced with a lot of entrepreneurs coming up with different reasons they should or should not open? They simply would not be able to present a unified front, and you would get the domino effect beginning to happen.

The other thing which has been suggested is that it would be bad for the retail employees. I am telling you that, yes, it is bad. This is not a supposition. It does negatively effect the quality of life of employees of the store.

I will move on to concerns that tend to be a bit political. I hope Mr. Ballinger will take note.

Mr. Ballinger: I have my pen in hand.

Mr. Reeves: Last year the government indicated it was against wide-open Sunday shopping. I think those of us in the retail business who do not want it felt reasonably satisfied it was not going to happen.

Then the government came around with the local option, which was a reversal. Some of the Liberal members may say it is not a reversal. They are against more closing. In effect, the domino effect works to allow wide-open Sunday, not short-term but long-term.

Then the government changed it again and has gone to the regional option. That is the same thing; it is just bigger domino squares. As a voter,

I suppose I feel betrayed in that I understood the government was against Sunday shopping and now I see it is basically for what, in the long term, will be wide-open Sunday shopping.

For Mr. Ballinger's benefit, if this had been proposed before the last election, I am sure at least one member who is sitting here today would definitely not be here.

Mr. Cureatz: Now, now.

Interjection: We are dealing in supposition.

Mr. Reville: I think he is suggesting you are a blank member now.

Mr. Chairman: I am keeping track of the time that is being injected here. You have the floor, Mr. Reeves. Go right ahead.

Interjection.

Mr. Chairman: Just ignore the interruption. It is out of order.

Mr. Cureatz: It is difficult.

Mr. Reeves: While budgets may come and go and the provincial sales tax may be raised from seven per cent to eight per cent and people tend to forget that, this is a topic which is going to stay around. The people who are perhaps for it will say, "That is nice we can have it," and there may be a lot who do not care, but there is certainly a very large group of us who are adamantly against it, and we will remember.

I suggest to the government that it would be better for them—not as good for the opposition parties, I think, because if the government changed it may neutralize things a bit—that there are a significant number of people who feel strongly about this and it would be good political policy to make a significant change in it.

I am going to do the conclusion now and a couple of recommendations.

The conclusion is one that was passed by the group of dealers that I am associated with, and they represent about 1,600 employees in stores surrounding Toronto. The motion they had was, in effect, that they are opposed to any extension of the Sunday shopping hours or Sunday shopping accessibility. The reasons they have may be different from mine. That is why in my presentation I stuck to the things I have experience of and I have gone through, but basically retailers and employees do not want it. There is no significant demand from the public, but one can create a demand.

When we were open on Sunday, it was worth while economically. If I went out and purchased special merchandise and sold at 50 per cent and advertised it heavily, I could change people's shopping habits by opening on Sunday. If we allow wide-open shopping on Sundays, people's habits will change, because once you are open, then you might as well maximize it. One will start advertising and encouraging people to shop on Sunday, whereas at present they would probably prefer to spend the time with their families and doing things which are unique for Sunday.

My recommendation is to re-examine the minimum exemption for square footage. The exemption at the moment, I think, is 1,500 square feet.

Interjection: It is 2,400.

Mr. Reeves: OK, do not re-examine it then. That is in about the right area; 2,000 to 2,500 would be good. It would allow family stores that are run primarily by families to stay open if they want.

As to my recommendation in recreational areas, my recommendation, by the way, is to keep the current legislation and work with it. There may be faults, and you are always going to have opposition and people wanting to change things, especially retailers, because we are entrepreneurs and we are quite individualistic, but the current legislation should be kept and worked with to resolve the inequities.

In recreational areas, if there are large stores that want to be open and they are more than 2,400 square feet, if you allow them to open from one o'clock to three o'clock, that is a very limited opening. It may not be worth while; therefore, they may decide not to open and their employees will not to have to suffer. If they do open, it will not be enough to force other competitors to do so. For example, in my area if my competitor had opened from one to three or one to 3:30 p.m., I would have allowed him to have that business and I would not have felt it would have been in long-term jeopardy; but when he starts opening six and eight hours, then I feel I have to respond to that. In the recreation areas, your Harbourfronts and your Eaton Centres, if they are redefined as recreation areas and they want to open for two hours, it may not be economical, but they can do it.

Thank you, Mr. Chairman and members.

1110

Mr. Chairman: Thank you very much, Mr. Reeves. We have five minutes left or roughly six, two minutes for each caucus. Mr. Reville first, Mrs. Marland and then Mr. Ballinger.

Mr. Reville: Thank you, Mr. Reeves. I thought your presentation was particularly interesting because of how philosophically you put things. The government would have people believe that it is neither for nor against more or less Sunday shopping; either it takes no position or that it is opposed to wider Sunday opening. That is why they have invented this local option so that municipal councillors who are sort of really in touch with the pulse of their community can make the decision. You seem to dispute the view that the government is really taking no position, or if it does take a position, it is in favour of about the current situation. Would you comment on that?

Mr. Reeves: Certainly. The government may think it is not taking a position and I guess the government can think what it wants, but—

Mr. Reville: The government can barely think at all, in my view.

Mr. Reeves: Yes. In this situation that may be true.

If you are stuck with a regional council in trying to decide which stores should and should not open, and having to take an assault and a barrage of people who do and do not want to open, some of them will simply take the easy way out and say, "OK, you can open," and you will certainly get some that will open. I have said that the domino effect is a fact and it will then spill over. It is not going to happen all at once, but you will get moves as councils change. As populations swing around, you then will get a move from

the nuclei of places that have opened into the surrounding areas and you will end up with a very much wide-open Sunday, I believe.

Mr. Reville: Do you feel as certain about that as it is possible to feel certain about anything, that the domino effect will occur eventually?

Mr. Reeves: I think it will. I think I have lived with it. I am not saying that in two or five years all of Ontario will be wide open. Probably the upper limit may be 75 per cent of the municipalities, but 90 per cent of the population would be within that. Yes, I feel absolutely sure that if the decision is made by municipalities, enough will give in and go for Sunday shopping and that will force the others to do it. Retailing is competitive and you have to match your competitors.

Mr. Reville: Thank you.

Mr. Chairman: We are going to have to move on, Mr. Reeves. I apologize. Mrs. Marland.

Mrs. Marland: Mr. Chairman, I would like to ask about procedure here and I do not want it to take up my two minutes.

Mr. Chairman: We will turn the clock off for a moment. Go ahead.

Mrs. Marland: The last time I was sitting on this committee, the presenters were half an hour separation. Do I understand now that we are down to 20 minutes?

Mr. Chairman: Twenty minutes.

Mrs. Marland: And we still call this public hearings?

Mr. Chairman: Mrs. Marland, it was agreed upon by the subcommittee and adopted by the original committee. I am not sure if you are a substitute or a regular on the committee.

Mrs. Marland: Are you saying that someone in our caucus agreed to 20-minute public hearings?

Mr. Chairman: It is 30 minutes and 20 minutes, yes. The reason for the 20-minute statement today is the fact that, as you are aware, we are travelling to Collingwood, Orillia and London. Because of the heavy demand of deputations on the road, we have limited it to 20 minutes. We have to travel today from here to Collingwood.

Mr. Ballinger: We have to take a bus.

Mrs. Marland: I recognize that.

Mr. Chairman: Does that satisfy your query?

Mrs. Marland: If somebody from our caucus agreed to 20-minute hearings, then I can see, but if the purpose of holding public hearings on these two pieces of legislation is to hear them and give the members of the committee the ability to ask questions, I think 20 minutes is absurd.

Mr. Chairman: Mrs. Marland, the reason for that is clearly we wish to hear as many deputants as possible as we travel extensively around the

province. If we did not put some form of time limit on it, then we would be depriving many people. We may even still have a number of people on our waiting list. It is important that we move along with fairness and equal time for most deputants.

Mr. Ballinger: Practicality, Mrs. Marland.

Mrs. Marland: I think some form of fairness would have been a half hour at least, because a two-minute question exchange is not enough. Anyway, obviously it has been decided. With respect, I will abide by the decision.

Mr. Chairman: I just want to comment on that. Mr. Reeves, as I indicated to him, had the right to use the full 20 minutes, if he wished, if he did not want to hear from any of us, and certainly that is his right. In my view, that is what is known as hearing from the deputants. I agree with you that two minutes does not give you much time for questioning, but I think Mr. Reeves was fairly comprehensive in his presentation and chose to use a significant portion of his time, which is his right.

Mrs. Marland: Thank you, Mr. Chairman, for the explanation.

Mr. Chairman: The clock is now running, Mrs. Marland.

Mrs. Marland: Mr. Reeves, first of all, I would like to congratulate you on your presentation this morning. I think you made some very good points when you talked about whether government staff are available and would be willing to work the extended hours that we know will be the effect of this legislation. I was also interested to hear you talk about, from your perspective, the domino effect not being a myth, as the Solicitor General (Mrs. Smith) has said.

You talked about the people who are for it getting their own way. Our experience has been that we have yet to see or hear from the people who are in favour of wide-open Sundays. In fact, we have tens of thousands of petitions, telephone calls and correspondence from people in this province who are opposed to wide-open Sundays. I wonder whether, from your perspective, you have any experience that would indicate there are a lot of people who are for it and are willing to give up a common day of pause.

Mr. Reeves: I believe if stores are open, people will shop on Sundays. If one is open, one will generate the traffic. I think because Sunday is a significantly different day, it should be different from the rest. I do not think there is any hardship imposed upon the people who may want to shop, because stores are already open, in most cases, nine to nine and nine to six on Saturday. Therefore, there is no hardship imposed on the people who may want to shop on Sunday by not having that option. There is certainly a much better quality of life continued for the people who are involved in providing that service.

Mrs. Marland: I have four questions that you can answer yes or no to very quickly.

Mr. Chairman: They will have to be very quick.

Mrs. Marland: Do you support the common pause day?

Mr. Reeves: Yes.

Mrs. Marland: Do you believe the common pause day is part of the framework of this new Bill 113?

Mr. Reeves: No.

Mrs. Marland: Are you in favour of the municipal option?

Mr. Reeves: No.

Mrs. Marland: Would you assist in the definition of a tourist area, if requested to do so, based on your experience?

Mr. Reeves: Certainly.

Mrs. Marland: Thank you.

Mr. Ballinger: I would first like to state publicly that Mr. Reeves is a constituent of mine in my riding. Especially as a government member, I found Mr. Reville's question about at what level you make a decision important. First of all, let me say I support what we are attempting to do with Bill 113. For 10 years at the municipal level, my last four as mayor, I was a member of a regional council that wrestled with tourist exemptions on a continual basis. I would like to ask you, since you live in the town of Georgina, which is under a tourist exemption currently, who made that decision for Georgina to open?

Mr. Reeves: It was made before I moved into the area. I do not know.

Mr. Ballinger: A local decision. I can assure you it was a decision made based on the premise that in that area there was a market.

The other question that interests me—and Mr. Reeves and I have chatted about this and Mr. Reeves has expressed his concern to me—is, what was the final outcome when the hardware store opened that forced you to open on Sunday? You said you were open last summer but you did not take that a step further and explain to us what the outcome was with both of you open on Sunday and competing.

1120

Mr. Reeves: We were both open on Sunday and I suppose we did significantly better in that we advertised and so on, but it was not satisfactory for our staff and for ourselves. We did not want to continue opening. I talked to the gentleman who had moved in. Winter is a slow time, so we closed, and then he decided not to open again this summer.

Mr. Ballinger: You acclimatized him to—

Mr. Reeves: Yes, to the rural area, to the easy living side.

Mr. Ballinger: Your comment was interesting, that had this been an issue of the election, we may have had one fewer member. In politics you never know; what goes around comes around.

Mr. Reeves: There might be even fewer.

Mr. Ballinger: The interest I have is the supposition you and the gentleman before you representing the Metro area make, that Bill 113 leads to

wide-open Sunday shopping. Quite frankly, based on my own experience, as a retailer as well, I do not believe that to be true at all.

Mr. Reeves: I understand.

Mr. Ballinger: In fact, I think—

Mr. Chairman: I do not want to interrupt you, but as a matter of fairness to all the members of this committee and the deputants, your time has expired.

Mr. Reeves: May I respond, or are we finished?

Interjections.

Mr. Chairman: Oh, good. Is there unanimous consent that there be a—

Ms. Hart: He was not able to make a whole comment. How can you respond?

Mr. Chairman: That is true.

Mr. Cureatz: He made the whole comment.

Interjections.

Mr. Chairman: Mr. Reeves, I regret to say I think we have had quite a full reponse and full questioning.

Mr. Reeves: Thank you very much.

Mr. Chairman: Thank you very much for coming forward. We appreciate your views and certainly they will be interesting.

Mr. Chairman: Pastor Ian Bowie.

Mr. Farnan: All I heard was one member of the committee say she did not wish to hear the comment. I heard four people say they would like to hear the comment. Are the government members on this committee putting a block to—

Interjections.

Mr. Chairman: I think all we are doing at the moment is requiring these deputations to have to wait longer to be heard.

Mr. Farnan: I would like a ruling from you as chairman.

Mr. Chairman: The ruling was that we were going to attempt to keep these deputants moving so they would not be spending any more time than they had to. They are here voluntarily. There are giving freely of their time. We are here to learn, really, and I think it behooves us to do the best job we can in that regard.

Mr. Farnan: I feel we have been muzzled from hearing a delegation.

Mr. Chairman: If you were muzzled, you were muzzled by the chairman, and I take full responsibility for it.

Mr. Farnan: No. I think one Liberal member of the committee expressed an opinion, three members of the opposition expressed an opinion and the chairman ruled in favour of the one Liberal.

Mr. Chairman: No, the chairman did not rule in favour of the one Liberal member.

Mr. Farnan: You certainly did not find out what the committee's will was.

Mr. Chairman: The chairman ruled in favour, Mr. Farnan, of the agreement which was made by all caucuses that we would attempt to accommodate as many people from Ontario as we could. I am attempting to do that, but in the interim, we have a deputant sitting before us very patiently.

We thank you for your patience. You have heard me before indicate that you have 20 minutes. You can use all or any of that 20 minutes for your presentation. It would be appreciated, though, if you would leave some time for the members to ask questions, but that is not necessary. You can use the entirety of the 20 minutes if you wish. It is Pastor Bowie?

Mr. Bowie: Bowie.

Mr. Chairman: Pastor Bowie. Perhaps you would like to identify yourself for purposes of Hansard and proceed.

PASTOR IAN C. BOWIE

Mr. Bowie: My name is Ian Bowie. I live at 23 Haviland Drive in the city of Scarborough. I appreciate the privilege of meeting with you this morning. I appear on my own behalf, although I believe my concerns reflect those of a wide cross-section of people both of the Metropolitan area and many different parts of our province.

A word of personal background may be in order. I have lived in various communities in Ontario since 1961, including Toronto, Barrie, Kitchener, Sudbury and, for the last three years, Scarborough. I am 45 years of age, married with three children, one of whom is a teenager and the other two preteenagers.

I have served for nearly three years as pastor of Churchill Heights Baptist Church, a congregation with an average Sunday morning worship attendance of 600. Our church family is one of approximately 500 belonging to the trans-Canada Fellowship of Evangelical Baptist Churches in Canada. It may be relevant to state lastly that I am a constituent within the Scarborough East riding represented by Honourable Ed Fulton.

I am appalled that our provincial government seems determined to open a Pandora's box in the area of Sunday shopping that will drastically erode family values, negatively alter community patterns of life, bring about a deterioration in employer-employee relationships and tear across the social fabric of our society as we know it.

The issue is not Sunday shopping per se. It is that our provincial government is setting us up for a seven-days-a-week workweek. That the effect of Bill 113 will result in wide-open Sunday shopping throughout Ontario is tacitly seen in the introduction of its companion piece, Bill 114, which

purports to protect an employee who wishes to refuse Sunday work without jeopardizing his job.

The fact is that Bill 114 does not, indeed cannot, in many instances protect workers against resentment by employers and fellow employees towards those workers who opt to maintain Sunday as a common pause day for worship and family gathering. Even if that incredibly fuzzy concept of "unreasonable" in Bill 114 is finally defined for an individual worker so that he is able to maintain his right not to work on Sunday, the very process that has caused him and his employer to pursue that issue to an employee standards tribunal is a clear indication of deteriorating employer-employee, and even employee-to-his-fellow-worker, relationships. This will continue on with ever-widening ripples of resentment, nonpromotion, exacerbating of other issues, effecting removal from employment in some cases and related reprisals long after the panel of referees has decided on the original issue.

By the way, has there been any serious attempt to try to evaluate, on a cost basis, the additional bureaucratic layering that would result from these proposals? It boggles the mind.

Concerning the main issue once again, why has the provincial government introduced legislation that will so clearly and so drastically negatively impact upon the families and workers of our province? Why is this, when within recent years, both the Ontario Progressive Conservative task force on extended shopping hours and the government's own select committee on retail store hours unanimously supported the principle of a common pause day in Ontario? Why do we now then have legislation proposed that would have the effect of doing the exact opposite?

Our present Solicitor General (Mrs. Smith), who is arguing so strongly for this legislation, is one of the signatories of that select committee which unanimously supported the principle of a common pause day only months before.

Why do we have the Attorney General (Mr. Scott) of this province supporting this legislation with such expression of opinions as: "Ontario is changing, it's not the same society it was 40 years ago. Perhaps there should be Sunday shopping," when only a few months before he cogently argued in the district court of Ontario that:

"The evidence 'overwhelmingly' indicated that there was a need for a legislated pause day due to a reluctance on the part of many industries to regulate themselves in accordance with this objective...There is an accompanying erosion of the opportunity for retail workers to participate in leisure activities with family, friends and others. A uniform pause day was needed to allow the pause day of retail workers to coincide with that of their school-aged children, their spouses, their friends and community events. A quality common day of recreation was needed for as many of Ontario citizens as was possible.

"Employees in the retail sector were viewed as being in need of a statutorily mandated day of rest. Without such a regulation prohibiting Sunday openings, the vigorous competition for market share would force many retailers to open. Retail employees are generally nonunionized, have low job mobility and few if any mechanisms for the redress of grievances. As a group retail workers are not 'in an economic position to negotiate a satisfactory financial arrangement for Sunday work and are 'subject to subtle economic pressure to work particularly in large establishments where employee resistance to

management decisions to open would be met by simply replacing the resisting employee.'" "

1130

I remind members of the committee that these statements were made by the Attorney General of our province and I subscribe to the points he was making in that particular case in the district court of Ontario.

Why has this legislation been introduced when our Premier (Mr. Peterson) agreed with and publicly endorsed the previous select committee when, during the election campaign, he categorically stated he planned no changes to the principle of a common pause day if his party formed the government, a position he continued to maintain as recently as November 24 of last year? Why has this legislation been proposed? Where is the mandate from the people? Surely, if there is any mandate at all, it is that our government protect and sustain the position it presented to the people prior to and during the last election.

Our Premier complains that Mr. Mulroney has no mandate from the people of Canada in imposing upon our country a free trade agreement with the United States. Surely Mr. Peterson should recognize that he and his government are to Sunday shopping in Ontario what Mr. Mulroney and his government are to free trade in Canada. Mr. Chairman, I appeal to you and your committee, do not allow this legislation with such sweeping negative potential effects to proceed.

Our government may maintain that it is not promoting wide-open Sunday shopping per se. To quote Joan Smith with respect to the effect of this proposed legislation: "We are not implying wide-open Sunday shopping. Instead we are saying that people in their own localities should have a say in when retail outlets are allowed to open."

For one thing, this statement completely ignores the fact that there will be no common pause day in Ontario. Second, it fobs off on municipalities, none of which wants this responsibility, an area of concern which historically and logically belongs at the provincial level. I agree with Anglican Archbishop Lewis Garnsworthy that it is incredible that a government with such a strong majority should take such a weak position in turning over this issue to the municipalities of this province.

Third, it completely ignores or fails to understand the effect this approach will have on neighbouring municipalities. I lived in British Columbia during the time when the BC Social Credit government introduced similar legislation in 1981. Predictably, a political dogfight ensued when each municipality voted concerning whether or not it would opt for wide-open Sunday shopping or the seven-day workweek.

In Maple Ridge, a suburban community of Vancouver, the municipality voted that there should be no Sunday shopping. Pitt Meadows, the municipality immediately to the west, and Coquitlam, five minutes further to the west, both voted for wide-open, seven-days-a-week shopping. For two years, until the next vote was held, department stores, food stores, lumber retail outlets and hardware stores in Maple Ridge suffered the enormous and unfair disparity that this divide and conquer provincial legislation brought about. Relations between neighbouring municipalities deteriorated. Business animosities developed as one firm's market share was cut into by the other, located only minutes away, but just over the municipal border. The local newspaper berated

the council and the area voters for failing to recognize that times were changing.

The value system of this pleasant town of 35,000 people was held up to ridicule solely on the basis of economic naïveté, as judged by the rapacious and greed-inspired mindset of big-business retailers and mall owners comparable to the Simpsons-Bay complex here in Toronto and the Cadillac Fairview mall ownership in this province and others. On this issue, neighbour turned against neighbour, friend against friend, and tensions increased in union and nonunion businesses alike. Two years later, though the vote was still quite close, Maple Ridge voted to accept the inevitable; seven-days-a-week shopping had arrived.

An outstanding business leader in British Columbia, who is a PhD graduate in business from Harvard University and the head of a family chain of shoe stores that had grown with the province through three generations, shared with me the realities of this struggle from a management viewpoint. Both for his employees' sake and on principles he felt were important, he opposed wide-open, seven-days-a-week shopping.

Many of his stores were in large shopping malls throughout British Columbia and Alberta. Mall ownership left him with no uncertain message. When the mall was open for business, all stores were to be open. Enormous pressure was brought on him to conform. The ultimatum was standard, "Do as we say or you are out with the next lease renewal."

The men and women of this province are not simply economic integers. Each person has been created as a complex personality with spritual, emotional, physical and familial needs as well as economic needs. There must be opportunity for individuals and families within our province to engage in public and private noncommercial activites that enhance individual and family relationships. For this to happen, as stated by the Attorney General in that previous court case, there needs to be a common, regular, noncommercial pause day for the citizens of our province.

To quote our Attorney General again: "Employees in the retail sector were viewed as being in need of a statutorially mandated day of rest. Without such a regulation prohibiting Sunday openings, the vigorous competition for market share would force many retailers to open." Again, "A uniform pause day was needed to allow the pause day of retail workers to coincide with that of school-aged children, spouses, friends and community events. A quality common day of recreation was needed for as many of Ontario's citizens as possible."

There is another of area of concern that troubles me. My wife works with a number of families who utilize the services of day care for their children. This is an area in our social life in our province which has occasioned great concern because of chronic underfunding and other related problems.

Is this government willing to place itself on record as being committed to the expansion of day care ministries and the vast number of other social and recreational services that this major shift in our social policy would bring about? Does it desire that there should be a greater number of latchkey children returning each day to empty houses, now with the spectre of having their parents absent seven days a week? Does this committee want to throw open the workweek to such a degree that even father and mother within individual families in an increasing number of our homes will have no common pause day as

parents, thus depriving an increasing number of our children of the quality of nurture that they need and deserve?

Mr. Chairman, I appeal to you and your committee to maintain your position of responsibility and trust in reaffirming the need for a common pause day in Ontario. Admittedly, there are problems with the present legislation now in place. Bring the will and wisdom of this Legislature to correct the problems and abuses, not to further contribute to the weakening of our family and community life.

I might interject that in British Columbia, Premier W. A. C. Bennett was famous for his second look. He survived for many years as a political leader. I would commend the principle of the second look to this committee with respect to this legislation.

Do not permit the needs and best interests of ordinary citizens of this province, young and old alike, to be crucified on the cross of political expediency and corporate greed.

Mr. Chairman: Thank you, Pastor Bowie. We have about eight minutes for each caucus.

Mr. Farnan: First, I would like to congratulate you, Pastor Bowie, on your excellent brief. While Mr. Bennett has never been one of my political heroes, the idea of having a second look at an issue and perhaps re-evaluating one's first decision, I think makes a lot of good sense.

This particular government has talked very well on the idea of having an open and accessible government. I would like you to comment on this related to the issue of wide-open Sunday shopping, as this legislation will be. The number of delegations we are receiving vis-à-vis the issue—just the advice you might give this government in terms of how it could be perceived as open and accessible in relation to this issue.

1140

Mr. Bowie: The problem of nonaccessibility and of a lack of responsiveness to the public political will is not a Liberal problem only. The Conservatives, I think, need to think back through their pattern in the latter years of Mr. Davis with respect to another major issue in which none of the three political parties were able to give to us the ability to respond to perceived needs. There was no variation of a position.

If I would say anything, I would say if politically it is important to be responsive to the constituency you represent, then for land's sakes, recognize what your constituency is saying to you in this area. I do not see that you are developing a creative pattern of leadership as a government by foisting on the public something which is not wanted or needed, and which is not beneficial to the interests of the vast number of people in Ontario.

I would perhaps summarize it by saying, in terms of political Ontario life, "Remember the Alamo!" or remember the previous administration and what took place after it pursued a course which was as counterproductive as I believe this one to be.

Mr. Cureatz: As the Conservative critic of the office of the Solicitor General, I want to say also that I was very impressed with your

presentation, and along with my colleague, I am sorry that with time limitations we all do not have the opportunity of further questioning.

Might I say that you brought out an interesting area on page 9 which I have not particularly concentrated on. You have shed greater light on it to me, basically in the second paragraph, "Is this government willing to place itself on record as being committed to the expansion of day care ministries and...other social and recreational services?"

I am wondering, in terms of your experience or your wife's experience with members of your congregation utilizing those various services, whether you feel very comfortable stating that if we are moving in that direction in terms of the business community opening up on Sundays, if that so happens with municipalities bringing forward their appropriate legislation once this has passed, there will be a great extension or there should be a great extension of those various services of government we now rely so heavily upon.

I can appreciate, through my constituency office, that I rely heavily upon them. When I get phone calls on weekends, as we all do, what do we say? "Let's wait until Monday when the offices are open." Maybe we should be thinking of a further step. We cannot be saying any longer, "Let's wait until Monday." We are going to have to say, as you are saying, that those offices are going to have to be open.

Mr. Chairman: You are not leaving the pastor very much time, Mr. Cureatz, but go ahead, pastor.

Mr. Bowie: My concern is that in the Malvern area where I serve, many of the people are among the least able to care for their own needs when it comes to focusing on an employer who says, "I want you in on this day or that day." Many are immigrant people to our country and they feel as if they have to do whatever is required of them. The effect for many of our families is that there are a lot of latchkey children, and it is a reality.

I think day cares do a good job, but I would hate to see an expansion of a day care concept that would cause us to be seeing day cares running seven days a week simply because we want this economic pattern introduced that is not needful.

Mr. Chairman: Mr. McGuinty had his hand up and Mr. Keyes, and there are only two minutes. I am not sure how you are going to divide it.

Mr. McGuinty: I will take one minute. If municipalities freely opt—I prefer to use that term, not your loaded term "foisted on the public"—and if in effect the result of this will be the erosion of family values, negatively altering community patterns of life with a deterioration of employee relations and so forth, tearing across the social fabric of our society as we know it, do we have any evidence to the effect that this is what has happened in British Columbia or Alberta? Do we have any hard evidence about the 160,000 retail employees presently working in Ontario, plus all the service people, the police, the firemen and the hospitals? My wife, for example, the mother of my 10 children, has been working on Sundays for 25 years. I am not sure my family values have been eroded. I am not sure my social fabric has been torn. I need hard evidence to support that.

Mr. Bowie: Let me just ask you the question, sir, do you believe that what we have seen within our communities in the last 25 years is an

enhancing of family values, the strengthening of the home, the greater development of nurture and care for children? I have been working with people in communities for the past 25 years, and let me tell you, we are facing major problems in the life of many families as they have experienced hammer blow after hammer blow, with the family being the object of so many areas of negative impact within our community over those years. Anything that further deteriorates the life of the family in terms of employment and parental ability to relate to children I regard as negative.

Mr. Chairman: I am sorry, we are going to have to move on. As I had anticipated, two minutes does not allow for two questioners. Thank you very much, pastor. You have shared with us your thoughts, and we appreciate that, as we do with every deputant who comes before this committee. We appreciate your taking the time to come down here. I am sure you are busy and have better things to do than this.

We will move on to the next deputant, who I understand is the deputy mayor of Aurora, George Timpson. Mr. Timpson, could you come forward please? Perhaps you would be good enough to identify yourself for purposes of Hansard. You have 20 minutes. You can use any or all of that 20 minutes for your presentation, but it would be desirable if you left some time that will satisfy the members in terms of being able to ask questions.

TOWN OF AURORA

Councillor Timpson: First of all, my name is George Timpson. I am the deputy mayor of the town of Aurora. I have served in the past as the mayor of Aurora, from 1977 to 1982, and as top councillor since 1982 to the current time.

I have a resolution with me that authorizes our mayor to be present. Unfortunately, Mayor John West was not able to be here and, as his deputy mayor, I am filling in for him.

The town of Aurora, over the time that this particular issue has been prevalent within our society, has been strongly opposed to Sunday shopping as it is presently interpreted. The first resolution we passed within our council, and I have arranged for every member present to have a copy of it, is a resolution which basically indicated:

"That the Premier of Ontario and our local MPP be advised that the council of the town of Aurora is opposed to the delegation of the Sunday store opening regulatory authority to the municipal level of government; and

"That Mayor West be authorized to pursue this matter with the other mayors within the region of York in an effort to gain a unified regional response to this issue."

That was followed by the receipt of a letter from the Premier (Mr. Peterson) and a letter from Charles Beer, who is our local MPP. Matters have continued to come before our council, culminating in a second resolution on April 13, a copy of which has been given to each member of the committee: "That the Coalition Against Open Sunday Shopping be advised that the council of the town of Aurora supports its efforts to ensure that government maintains a province-wide 'common pause day.'"

Then with the calling of these hearings, we passed the resolution authorizing the mayor to be present at this session this morning.

I would like to take a couple of moments to go through the reasons the town of Aurora feels so very strongly that Sunday shopping is just not an acceptable way for the people of this province to be proceeding.

First of all, there are the economic factors. Economically, the retailers are not going to make any more money than they are making at the present time. Unless we basically give everybody a 14 per cent increase in salary effective immediately, they are not going to have that money to spend. If you have a budget in your family of \$200 a week, chances are you will be still spending that \$200 a week, whether it takes you six days or seven days.

1150

So we are looking at a lot of extra costs, not extra profits. Those extra costs are going to be borne by the people who purchase the product. The prices they pay for that product are going to be higher. In some cases, perhaps some people might be able to afford that, but if we are truly representing all of our society, we have to remember that there are those people who are financially struggling. Those are the people who are going to be hit the hardest because of higher costs.

I think we all recognize that at the corner milk store, even though it is a convenience, the price of milk, the price of bread, those basic commodities, is higher in those stores than in some of the large supermarkets. If we want that to happen right across the whole board, then Sunday shopping is the way to go. I, personally, my council and my town are very much opposed to that.

Second, let us look at the impact on the family. The family unit in Canadian society—in fact, in North American society—is one of the fundamental cornerstones. I think there are enough pressures on the family today that our family unit is threatened. Sunday shopping will only serve to fragment it further.

I heard a previous question, "What about essential services, nurses, doctors, firefighters and police officers?" Of course, they are just exactly that, essential services. We do not even allow some of those groups to go on strike. I think that is a very simple thing to recognize. Certainly, society has to continue seven days a week, but retailing does not. Retailing is not an essential service. If I want a new Volkswagen or something like that, or a new Chevrolet or a new Ford, I can buy one on Monday. I do not have to buy it on Sunday.

If one looks at who is likely going to be working on a Sunday, it is our young people; young people who perhaps should be doing their homework for school; young people who perhaps should be spending a little time with grandmother or grandfather, so that the family unit is strengthened, or maybe just having a chat with their parents, as opposed to being out there selling some merchandise in some store.

I believe the family unit is severely threatened, either by the children being absent from the family or perhaps through the mothers and fathers themselves, if they are not the company president, having to man those particular store hours. A day of common pause is a very worthwhile goal. I think the provincial Legislature should be doing everything it can to strengthen the unit of the family as opposed to weakening it.

Third, let's look at competition between municipalities. The town of Aurora is about 30 miles up Yonge Street from our present location. We have the town of Newmarket to the north, the town of Richmond Hill to the south, the township of King to the west and the town of Whitchurch-Stouffville to the east. It is a rather interesting, rapidly growing area. If one of those municipalities opts for Sunday shopping, rest assured that delegations will be in putting pressure on the local municipality so that they too are able to compete. Those pressures are going to be great.

That is why, in my mind, it should be the provincial level of government that is making this very important decision. I think it is important so that tourist areas such as Georgina, which is part of the region of York, are recognized specially, and a special definition of a tourist area, perhaps a little tighter than what is in the current legislation, should be defined. The province, I believe, has to take the lead in that area.

Fourth, protection for employees and the small business operator: I am reminded of the story that one of our service station operators experienced. Fortunately, this man owned his own property, but one of our major oil corporations wanted this particular service station to sell gasoline at a certain price and he refused. The president of the oil company was not aware that he did not own the property, so he told the operator, "I guess you're out of business." The operator in that case was able to turn around and say, "I am sorry, you get your pumps off my property," and he has become an independent service station operator since.

Not everybody is that fortunate. There are people who are small business operators who are renting or leasing their premises who could be removed, let's say by a selfish, profit-seeking person wanting to do nothing more than have a unified front within his or her mall.

The protection to small business operators and the protection to employees—as I think the previous delegation before you did an excellent job in presenting, so I am not going to repeat all of that—is something I would urge the government to look at very carefully.

To make the point that how a question is phrased has a lot to do with the results of a survey, I have given each member of the committee, through the clerk, a copy of this little cartoon. The answer "yes" might be expected of both.

"Do you think that stores should be allowed to remain open on Sundays so that working people can have some extra time to shop and buy the necessities of life?" You can see the smile on the gentleman's face there. Or, "Do you think that stores should be closed on Sunday so that the greedy owners won't be able to squeeze the last penny out of the poor shoppers every day of the week?"

The way the question was phrased could change one's whole thinking on the issue and depending who is asked, the question can also slant the survey result.

That is basically my submission. I am sorry I did not have that all written out for you in 25 copies, but I am sure you paid attention.

Mr. Chairman: It is very interesting, particularly the market survey example you have given us. We have approximately 10 minutes, so three and a third minutes a caucus.

Mr. Reville: Thank you, deputy mayor. I—

Interjection.

Mr. Chairman: Mr. Farnan has indicated some desire to use some of that.

Mr. Reville: OK, we have a deal here.

Mr. Chairman: Then Mrs. Marland and then Mr. Ballinger.

Mrs. Marland: Thank you, Mr. Chairman. May I just—

Mr. Chairman: No, no, Mrs. Marland, Mr. Reville was first.

Mrs. Marland: Sorry.

Mr. Reville: Thank you for your deputation, deputy mayor. I assume what the Liberal government will say to you is: "Fine, you've indicated that your town is opposed to wide-open Sunday shopping. We have provided you with this local option, use it. Keep your town closed."

You have indicated that with Newmarket, Richmond Hill and Whitchurch-Stouffville all around you, then each of those councils would also have to take the same position or you would not be able to resist. Why do you think those other local politicians will not take the same position that you will? They have already indicated, I think, that they are likely to take that position, at least at the outset.

Councillor Timpson: That is wonderful that they have indicated that, but then we know municipal elections are coming along. By the time this bill is approved by the Legislature, we might well have a whole series of new municipal politicians. What is perhaps a de facto decision today might not necessarily be a de facto decision come December 2. I think that is why we need some consistency and why the provincial government should be taking the lead.

1200

Mr. Farnan: Very briefly, both yourself and a previous delegation have made comment that there are some groups in society, which perhaps are weaker and do not have the same protections as others, that will be the target of greatest hurt and damage as a result of this proposed legislation. Would you comment further on that, please?

Councillor Timpson: I guess what I am really getting at is the fact that within the town of Aurora we have a very diverse population. We have the company presidents and we also have the people who work in the stores and in those actual retail operations. It is not the person, let us say, who is sitting at the board of directors table who is going to be out there on Sunday afternoon actually running the operation; it is going to be the part-timer, probably not even a full-time employee, but a part-timer, perhaps a 16-year-old or an older person. It is going to be people who feel that if they want to have an opportunity to do a little job, make a little money, they have to go to work on that Sunday to do it.

My feeling and our council's feeling is that those opportunities are there sufficiently to allow young people and those who must work the opportunity to work. By adding this extra responsibility to them, I feel we are doing a disservice by taking away the opportunity for them to do something else. They are absent from their family for that time and they are absent from the other things young people should be able to do, but cannot do, because they are now at work.

Mr. Chairman: I am going to have to move on, Mr. Farnan, but you too have defied my statement that you cannot ask two questions within this framework. I think it was two minutes, though, before; it is three minutes this time. Mrs. Marland.

Mrs. Marland: Do I get three minutes then?

Mr. Chairman: Yes, you certainly do, unless Mr. Cureatz wants a little of that time.

Mr. Ballinger: We will buzz you, Mrs. Marland.

Mrs. Marland: First of all, I want to commend this deputy mayor. You certainly did not need to have your presentation written, because it was excellent as you did present it, extemporaneously. I think those of us who are former municipal politicians certainly understand very directly where you are coming from and your total responsibility to your municipality. You refer to the fact that the present legislation, where it refers to the tourist exemption, does present a problem and could have been tightened up.

It is interesting. When that subject comes up, one of the examples that is always cited is the fruit market which happens to be in the city of Mississauga, in the community of Malton. It is Longo's Fruit Market, which was approved by Peel regional government to be open on Sundays as a tourist area, and that reference is often made about the farce of the existing legislation. In fact, I was on council when that resolution went through Peel regional council and I certainly voted against it, because I felt the same feeling about the futility of that kind of description under "tourist area."

However, Aurora would be a member of the Association of Municipalities of Ontario?

Councillor Timpson: That is correct.

Mrs. Marland: In that position as a member of AMO, to your knowledge, was the Association of Municipalities of Ontario ever asked by the Ontario Liberal government for its input in the writing of this legislation?

Councillor Timpson: I am not a member of the board of directors of AMO, but from the information I have read, that input was not requested. I believe what has happened is AMO has prepared its own position paper on the legislation. The municipalities, including Aurora, have endorsed that. I imagine the issue will certainly be an item of hot debate at the annual AMO conference next week.

Mrs. Marland: AMO, in 1986—

Mr. Chairman: You have a very brief 30 seconds, Mrs. Marland.

Mrs. Marland: All right. I will ask you the four questions that we want to get on the record.

Do you personally support the common pause day?

Mr. Timpson: Yes.

Mrs. Marland: Do you believe that the common pause day is, indeed, part of the framework of this new bill, Bill 113?

Mr. Timpson: No.

Mrs. Marland: Are you in favour of the municipal option?

Mr. Timpson: No.

Mrs. Marland: Would you assist in the definition of "a tourist area" if requested to do so on behalf of the town of Aurora?

Mr. Timpson: Yes, we would.

Mr. Ballinger: I perceived in your presentation that you are operating under the presence of a local option. The resolution that was passed by your council is dated December 2, 1987 which presupposed the outcome of Bill 113. Are you familiar with Bill 113 as it now stands?

Mr. Timpson: Yes, I have a copy of it here.

Mr. Ballinger: Then you would be familiar that it is not a local option as it relates to the town of Aurora in the regional municipality of York, but that it is a regional option?

Mr. Timpson: I recognize that is the case. But I still feel that even if it is within the regional municipality of York, if we open up one area, let's say Newmarket and not Aurora, then we are going to be into a real dog's breakfast.

Mr. Ballinger: Who determines that?

Mr. Timpson: That will be the regional council, as I interpret it.

Mr. Ballinger: I would like to refer to the second part of your resolution, which I find is really interesting. The second part refers to the fact that the mayor should relate with all the other mayors in an effort to gain a general consensus. Are you aware of the fact that York region passed a resolution?

Mr. Timpson: Not being a member of the regional council, I was not aware of that.

Mr. Ballinger: Currently my understanding is that Peel, York and Durham have all passed resolutions that would sort of preclude your concerns about the domino effect at the local level.

The other comment I want to make is because we had a gentleman here from another part of York region this morning, who is a proprietor who has some major concerns about the domino effect—

Mrs. Marland: Peel abuts Metro.

Mr. Ballinger: I understand that. I am discussing with the gentleman—

Mr. Chairman: Go ahead.

Mr. Ballinger: Thank you, Mr. Chairman. I will try not to interrupt. The point is that you represent Aurora. If your concern relates to Newmarket and you were a regional councillor and you were concerned about an application from Newmarket, then obviously your first concern is to your local constituents of your own municipality. That would predetermine how you would vote on a particular application, would it not?

Mr. Timpson: It certainly would, but I think what I have said in my comments to the committee here this morning is that if we have the opening of certain stores, let's say, within the town of Newmarket, that is going to be a decision which will have a great impact on the operations in Aurora. It is that aspect that I am concerned with.

Mr. Ballinger: Understood. But again, I think the real point here of the legislation, which I support as a former mayor and as a retailer, is that that option is at the regional level.

So that is taken away from the hands of the local council and their sort of parochial attitude about how it relates to their own municipality. It is now discussed at the regional level. I think it is a plus factor in this legislation and one that I, again, as a former regional councillor, support totally because it takes away that concern for the so-called domino effect.

Mr. Chairman: I think we will leave that as a rhetorical question unless you have a very brief answer.

Mr. Timpson: I have just one brief comment that I wanted to make on the competition between municipalities. What difference is it whether it is Peel region versus York region versus Durham region or Simcoe county?

The case still stands. The province should be providing the leadership, not leaving it to regional municipalities or area municipalities represented through their regional membership.

Mr. Ballinger: We already have that in the current legislation.

Mr. Chairman: I regret to say that we have run out of time. We have another deputant.

I would like to thank you. Perhaps you would extend our thanks to your mayor, as well, for having responded and agreeing to come before us. The information you have brought to us will be considered by the committee. We are most pleased to have it.

The next deputant is Jack Rabba. Perhaps you would come forward and take a seat, and identify yourself into the microphone there for the purposes of Hansard. We apologize that we are a bit behind schedule but we have tried to stay on track as best we can. You have 20 minutes and you can use all or any part of that for your presentation. It would be desirable, however, if you left time for the members to ask questions; so if you would like to proceed.

1210

JACK RABBA

Mr. Rabba: Good afternoon. My name is Jack Rabba. This is the first time I have appeared in front of such a committee.

Mr. Chairman: Do not worry about it. What I suggest is, if you have not been here for a little while to have already observed, the people on this committee are very nice people.

Mr. Cureatz: Except for those on the other side.

Mr. Chairman: They are not going to bite you. We are here for the very purpose of hearing from citizens such as yourself in order to deal with this matter.

Mr. Rabba: Thank you. I have a unique situation, which might look like it is self-serving, but it is not. My situation is, I own a small chain of convenience stores. I have been working on that chain for the last 22 years, working very hard, seven days a week, 24 hours a day; just about. I designed that chain, worked on it, built it up, based on the existing laws of Ontario. I did everything. I signed leases, some of them longer than others, and planned everything around me. As I said, I worked very hard.

Now, the whole thing appears sort of very confusing. Why? Because between September and December 1986, everybody else opened and I saw sales in my chain drop between 10 and 15 per cent. That just about killed me. In December, when the provincial government set up a committee to study and discuss Sunday shopping, it came out with very positive and very firm results saying, "We recommend closed Sundays; leave things as they are." A little guy like me carries on, adds to his leases, adjusts this and does that and keeps planning.

Now we have a new party going on—it is the same government, but just a new thing. "We want to give it to the municipalities." Fine. I have been in the retail business for 22 years. I have leases in the malls, I have got leases in strip plazas. My guess, because I am a street man. I am the guy who is just in the street. My guess is, give it two, three, maybe four years and everything will be up. I have got examples of that. The gentleman before me is the deputy mayor of Aurora. He is right. I have got a store in Queensville which is north of Newmarket, and it was in the newspaper that the local municipality of Holland Landing is giving full permission to a supermarket to open because, I guess, it is across from the municipality or what have you.

I know the next guy says, "Well, why is he, not me?" If he is opening in Holland Landing, Newmarket is about four miles away, Aurora, the whole thing will go on. But what really makes it difficult for me, it is not that my whole future and the future of my family depends on that—and I have been building for years—up to this point, it is not even clear. Really, if I find a location today or tomorrow I will not know what to sign up, whether to base my calculations on everybody open or to base my calculations on everybody closed; to base my calculation on small square footage to fit with the Sundays and holidays or to base my calculations on taking big supermarkets.

What I am saying is it just does not give us guidelines to work with, to plan, to try to manoeuvre. You really do not know what to do, and I find it very difficult.

Now, everybody talks about the malls. I have a store in a mall. Let us say some merchants signed 10- or 15-year leases prior to this. In every lease in a mall—and I have signed two or three of them—one clause is part of the lease, and the landlord, the big mall owner says, "It's either take it or leave it, you have to obey the mall hours." That means if I signed the lease 10 years ago, I have to obey the mall hours.

As soon as that thing—open Sunday shopping—kicks in, they will tell me, "That's part of your lease." I could have been building business for 10 years. Now I have to make up my mind what I want to do. Should I follow or close down? Somebody else will come and take over. Probably, I will be the loser either way. If I let the place go, probably they could lease it, and for much more money, based on seven-day-a-week sales.

What I would like to mention to you, ladies and gentlemen, is that every developer knows the kind of business you are in. They could base their sales on six or seven days a week. If Sunday shopping goes in, you will see rents—no question—get increased in the malls and the plazas, because the landlords start basing their calculations on: "Here, this merchant is going to be open seven days a week. I don't want the guy who does six days a week. He's not aggressive enough for me. He wants to go rest." They will base their calculations on seven days and they will ask for more rent. If you do not want it, somebody else will take it.

I hope I have mentioned everything I wanted to say. As you can see, I am a bit excited, but all I would ask—it is a very simple thing—is I hope the government will give us some definite guidelines, because it is our future. It is hard work that was there for years and years, and we would really like to know which direction to go. You play the tune and I will dance, but just tell me which tune you are playing.

Mr. Chairman: I have Mr. Reville first. We have approximately four minutes for each caucus, and then Mrs. Marland and Mr. Keyes.

Mr. Reville: Mr. Rabba, I appreciate your coming and giving us your views. They are a little bit different from some we have heard, because you have different experience with this. Did I understand from your deputation that you took a look at the recommendations of the select committee on retail store hours? That was the select committee you mentioned that was set up in December of 1986, and it did some hearings in the spring of 1987, I think.

Mr. Rabba: Yes, we did look at them.

Mr. Reville: Did you think those recommendations were OK?

Mr. Rabba: To tell you the truth, I really did not look at it from a deep point of view. I looked at it from a simple, average-man point of view, and it said you leave things as they are. Of the people they interviewed or talked to, 96 per cent recommended that you leave things as they are. That is the real thing that hit home with me. I did not go into details and study it.

Mr. Reville: So your basic concern with what the government is trying to do is that it could create a situation in which it would be impossible to plan because you would have one municipality doing this and another doing that?

Mr. Rabba: Correct. The recommendation came. I think we should review it. If we should let everybody open, I am sure I will be thinking

differently. But the big thing was that we leave things as they are. It was the existing government.

Mr. Reville: And then they kind of changed their mind.

Mr. Rabba: Joan Smith was there.

Mr. Reville: I am finished my questions. We have had six deputations today; the government 0, the people 6.

Interjection.: It says it all.

Mr. Reville: It is a shut-out today.

1220

Mrs. Marland: First of all, let me say that I appreciate your being here. From your point of view, and I also clearly hear your message, it is very difficult for businessmen to plan in the province today with the current Liberal government, which campaigned saying one thing and then less than six months later is saying something that is totally opposite and now, tragically, doing something which is totally opposite.

I am familiar with your kind of operation. You have just opened a brand-new store at the corner of Elizabeth and Lakeshore, which is two doors from my constituency office.

Mr. Rabba: I am your neighbour, yes.

Mrs. Marland: You are my neighbour. You have another store I am familiar with in Mississauga, so I am well aware of the calibre of service you are giving in the traditional convenience store setting, at least to the people in the city of Mississauga. Do you have stores in both rural and urban areas around the province?

Mr. Rabba: Yes, I do. I gave an example a few minutes ago. In Holland Landing, I have a store and the municipality is giving special consent for a supermarket to open.

Mrs. Marland: How many stores do you have, approximately?

Mr. Rabba: At present I have 17 stores.

Mrs. Marland: When you look at your overall planning as a businessman, you now realize there is no way it is possible to be in a planning sense, as a business person in Ontario, with this kind of legislation, which tries to walk a line by saying, "Let somebody else decide." You are looking to a government that is elected in this province to make a decision and what you are finding is that it is not making a decision.

Mr. Rabba: Mrs. Marland, to tell you the truth, nobody knows the nights that I have been up not sleeping because of that issue. It is very, very difficult. It is my whole life that is in there.

Mrs. Marland: How you do answer the question about a common pause day? Do you personally support a common pause day? I recognize you are operating a seven-day week, and some of the stores are 24-hour stores. If somebody asked you that question about your own staffing, how do you deal with that question?

Mr. Rabba: I really do not know how to deal with this question. For the last 22 years, I have designed my life around it. I cannot commit either way. What I really know is that I know there were about—excuse my expression—about 100,000 speakers opposing the common pause day or for it.

My main concern is that here I have a lifetime commitment that I have planned and I just do not know what to do. There is an argument to be made both ways, but I really do not know how to answer this question.

Mrs. Marland: Your concern as a business person in Ontario who is in all kinds of settings, urban and rural, around the province is that without the provincial government having the reins and making the decisions that affect everybody equally, you foresee disaster.

Mr. Rabba: Absolutely. What you are saying is absolutely true. First of all, there will be big chaos in the marketplace. Some people will gain and some people will lose, but the losers will outweigh the gainers simply because the losers have calculated their sales according to seven days a week and the market being as is, and the gainers—why would the government put something in that confuses the whole market?

Mrs. Marland: Then after it is confused, I guess what begs the question is why, when the government has done that, does it then opt out of its own responsibility and dump that responsibility where you then add to the confusion?

Mr. Chairman: Are you going to ask your four questions, Mrs. Marland? I think two of them already have been answered, but if you want to ask them, you have about 30 seconds.

Mrs. Marland: I think the question for Mr. Rabba is very clear, that if you are going to have a business planned in the province, the current Liberal government is not facing its responsibility to business or the consumer by not taking it as a province-wide responsibility.

Mr. Rabba: Absolutely. What you are saying—absolutely.

Mr. Chairman: I am afraid we have to move on, Mrs. Marland.

Mr. Cureatz: The answer was yes.

Mr. Keyes: Mr. Rabba, you have expressed some concerns about the legislation, but I am just wondering if you are quite familiar with the legislation. I would suggest to you that in most of the presentations we had today, it all depends upon a person's outlook on the legislation and what it is they really have in their own mind that they want to see happen, as to whether the legislation is good or bad. I look rather positively upon it because it does provide the types of direction that you said you were looking for.

You said you do not know what size of a store to operate. The legislation is very clear. You can have total freedom to operate your stores. I have not had the privilege like Mrs. Marland of being so close to one of them, so I am not even sure what they are. But I gather they are convenience stores. It specifically says 2,400 square feet and you are totally exempt. That is a pretty good guideline. If it happens to be a pharmacy, then the guideline says 5,000 square feet. I think it is there.

You talked about a concern about the lease that you have had for a number of years. There is protection in there that if a municipality should decide to have open Sundays and if you are in a mall, as an example, then you have the right to make the decision as to whether you stay open or not, because even if it is in a lease that the owner determines it, that will not be law because our law will override the law of a lease that would force you to open. So there are a lot of protections there. I just kind of commend looking at those to see that.

Mr. Rabba: Mr. Keyes, I respect what you are saying very much.

What I would like to say is that my very strong belief is that once you give it to the municipalities, as I say, within two to four years the whole thing will be open. What I am saying is, if I want to plan for now, tomorrow or the day after tomorrow, I would not know how I should base my plans. That might take seven years. It is up in the air, but all indications are that there is strong movement and that there are concessions there being made by municipalities to start creeping up. I call it the avalanche. When the avalanche starts, it will never stop.

I would like to plan. I do not know what to plan because I do not know when that avalanche will hit me. Believe you me, I hear it rolling back there, number one. Number two, about the information on the mall, I have signed lots of leases with lots of landlords. Things are quite different in the marketplace. I mean, the guy will not come out and tell you, "If you do not want to open Sunday, it is OK."

Believe you me, let us say that I have a lease that started five or 10 years ago. In the lease, which I have here, it is very clear that they cannot put it any other way. If they have a shopping mall, they cannot have some stores open from 9 a.m. to 5 p.m. and some open from 10 a.m. to 12 a.m.. Everything has to be uniform. Whether you sign it or not, you have to obey the mall rules.

As I said, they might respect your existing five-year or 10-year lease, but once it expires, they are not going to like you very much. They are going to give your lease to somebody who is going to play ball with them and have a uniform mall, because you do not want to go to a mall to see the shoe stores open and the shirt store closed. You get confused. I will go to a different mall where I know there is the whole thing.

Mr. Chairman: I think we have reached that point. We would like to thank you very much for taking time out of what sounds like a rather hectic schedule to come before us and give us the information you did.

Committee members, I wish to advise you that for those of you who wish to travel by bus or van, I guess it might be called, to Collingwood, it will leave from the front entrance at 2 p.m. There are a couple of us driving up for various reasons. If anybody is interested, I am driving. I believe Mr. Keyes is as well. If you are not going on the bus, perhaps you would indicate that to the clerk so she has some idea how many people are going on the bus.

Interjection.

Mr. Chairman: I was going to say whether she should order Chips Ahoy cookies or—I cannot remember what the other one was. In any event, if you would let the clerk know.

Interjection.

Mr. Kanter: Is Bob Rae playing the piano?

Mr. Chairman: As you are aware, the first deputation in Collingwood, unless there has been a change, is at seven o'clock this evening. We would appreciate you being there. Would you let the clerk know now, if you would, whether you are going to drive with either Mr. Keyes or myself or if you are going to take the bus. That would be appreciated. We stand adjourned until seven o'clock this evening in Collingwood, Ontario.

The committee adjourned at 12:31 p.m.

CA20N

XC14

-578

J-30a

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT

Monday, September 19, 1988

Morning Sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE
CHAIRMAN: Callahan, Robert V. (Brampton South L)
VICE-CHAIRMAN: Hart, Christine E. (York East L)
Chiarelli, Robert (Ottawa West L)
Cureatz, Sam L. (Durham East PC)
Hampton, Howard (Rainy River NDP)
Kanter, Ron (St. Andrew-St. Patrick L)
Keyes, Kenneth A. (Kingston and The Islands L)
Philip, Ed (Etobicoke-Rexdale NDP)
Poole, Dianne (Eglinton L)
Sola, John (Mississauga East L)
Sterling, Norman W. (Carleton PC)

Substitutions:

Ballinger, William G. (Durham-York L) for Ms. Poole
Collins, Shirley (Wentworth East L) for Mr. Keyes
Cunningham, Dianne E. (London North PC) for Mr. Sterling

Clerk: Deller, Deborah

Staff:

Swift, Susan, Research Officer, Legislative Research Service

Witnesses:

From the Church of Jesus Christ of Latter-Day Saints:

Warner, C. Malcolm, Regional Representative, Eastern Canada
Robertson, Richard R., Director, Public Communications
Miller, Dr. Bradley C., Director, Social Services, Eastern Canada

From F. W. Woolworth Co. Ltd.:

Elliott, Keith L., Director, Public Affairs

From Miracle Food Mart:

Winstanley, Robert, Director, Marketing Projects

From Tourism Ontario Inc.:

Michener, the Honourable Roland, President and Chief Executive Officer
Biggs, Bill, Chairman, Development and Promotion Committee

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday, September 19, 1988

The committee met at 10:08 a.m. in room 151.

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT
(continued)

Consideration of Bill 113, An Act to amend the Retail Business Holidays Act, and Bill 114, An Act to amend the Employment Standards Act.

Mr. Chairman: I recognize a quorum. Perhaps the first group would like to come forward. At the outset, you will note there is a microphone in front of you. Your address to us will be transcribed by Hansard; so speak into it as best you can. You have 30 minutes. It is your time. We are here to hear from you and you can use all of that time, if you wish, for your presentation. If, however, there is some time left over, I am sure there will be questions from members of the three parties which form this committee. It is my job to keep time and to allocate the remaining time, if there is any, equally among the representatives of each of the three parties. If the main presenter would like to identify the other two people and then proceed with your brief in any way you wish, we are ready to proceed.

CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

Mr. Warner: On my right is Dr. Bradley Miller and on my left is Richard Robertson.

We would first like, as it is Monday morning and we are just getting started, to show a video clip.

Mr. Chairman: That is fine. We will not put all the lights out because it affects the television coverage. Let's see what happens without putting any out.

If any members are having difficulty seeing that, perhaps they would like to move around.

[Video presentation]

Mr. Warner: Mr. Chairman and members of the standing committee on administration of justice, we are very happy to be here this morning.

Mr. Chairman: May I just interrupt? For purposes of Hansard, perhaps you could identify the other two gentlemen, who is who.

Mr. Warner: I thought we had done that before.

Mr. Chairman: Maybe you did.

Mr. Warner: We will do a second, just to make sure. On my right is Dr. Bradley C. Miller, who is the director of our social service office for eastern Canada. On my left is Richard Robertson, our national director of

public communications. I am Malcolm Warner, regional representative of the church for eastern Canada.

1010

Again, we are very happy to be here. I believe the TV spots you have just seen, which many of you may have seen before, represent our concern for the family. We are concerned about this proposed legislation.

We are here representing the 23,000 members of the church in Ontario. There are 113,000 members in Canada and approximately 6.5 million worldwide. You have each heard individually during these hearings from the seven stakes or dioceses of the church in Ontario. We felt it appropriate that each stake present the views of its members in the community where they live. These briefs have been prepared and presented locally by nonpaid, nonprofessional volunteers.

Our main purpose for appearing today is to present the provincial results of the survey we administered to our members across Ontario and to have Dr. Miller, who is a professional psychotherapist and family counsellor, present his opinion on the value of a common pause day to our society.

Before we do this, we want to outline some key points for anyone wishing to understand our position. These key points are as follows, and they are explained more fully in the appendix: We believe that governments were instituted of God for the benefit of man and that He holds men accountable for their acts in relation to them, both in making the laws and administering them, for the good and safety of society.

We do not believe that human law has a right to interfere in prescribing rules of worship to bind the conscience of men, nor dictate forms of public or private devotion.

Second, the Church of Jesus Christ of Latter-Day Saints does not favour one political party over another. We have no candidates for political office and we do not undertake to tell people how to vote.

Third, although we are members of the interfaith group of the Coalition Against Open Sunday Shopping, commonly called CAOSS—and I wished that worked into a better name—the content of this, as well as all of the other briefs presented by our stakes, including the survey, is our own. We would have been here expressing similar views regardless of whether or not we were a member of that organization.

If you were to visit a Mormon ward or congregation, you would find no paid ministry. Positions are filled voluntarily by members of the congregations. Each of those members who are in those positions have gainful employment to support their families apart from their church service.

The church operates financially on the tithes and offerings of its members. Faithful members freely contribute 10 per cent of their gross income to the church. We do not solicit funds from the public nor have a Sunday collection plate.

May I briefly present some of the survey results. Again, each of you have heard some of these from the individual stakes. This is a composite of the provincial results.

On one Sunday in July, we conducted a snapshot survey of adult members 18 and over. A copy of the survey is attached. We received 2,016 replies. These are the results from across Ontario: 95 per cent support Sunday as a common pause day and 96 per cent are opposed to open Sunday shopping.

The survey results clearly demonstrate that our members want Sunday protected and do not want to be forced to work. We regard Sunday as a sacred day of rest provided to mankind for its benefit by the God of us all. Its preservation is necessary for the common good and betterment of our society. This is not only a 3,000-year-old law which has proven its worth over centuries, but one that has been reaffirmed in our day.

Fully 81 per cent feel the power to regulate Sunday shopping should remain provincial. The common pause day, and for us a sacred day, can be best preserved by the province. Parts of the present Retail Business Holidays Act can be rewritten to make it both workable and enforceable. Local autonomy in this matter will only lead to further fragmentation of the day.

The local autonomy proposed in Bill 113 is an abdication of the decision-making powers granted the provincial government by the electorate. The government reversed the position it espoused during the election. Some 69 per cent feel open Sundays will have some detrimental effect for the reasons stated: 28 per cent in some respect related to work; 35 per cent related to religious observance; 24 per cent related to family; 6 per cent for economic reasons and 8 per cent relative to society in general. As I indicated earlier, a more extensive comment on these surveys is in the appendix.

The test of reasonableness: It should be obvious that we feel these bills should not be passed because of some serious weaknesses. Bill 114 purports to protect the rights of retail workers fully and effectively. However, that protection is limited to what mediators and referees consider reasonable. To apply a test of reasonableness to matters of conscience denies protection rather than gives protection. It is totally inappropriate in our free and democratic society that an individual holding views regarding Sunday observance would be required to justify the reasonableness of those beliefs. Even if an employer offers a premium salary, an employee's refusal to work on religious grounds should never be considered to be unreasonable. In practice, the legislation cannot protect workers from powerful, subtle and unprovable pressures when one objects to Sunday work.

The weekly sacred worship day of others: It is our position that the weekly sacred worship day of all faiths should be protected, not just the Christian Sabbath.

Now if I may, we wish to hear from Dr. Miller.

Dr. Miller: I have worked closely with families and feel I have developed a sense for that which both strengthens and weakens a family unit. I believe strongly that the common pause day has been of immense benefit to the way of life we enjoy here in Ontario. I see the benefits lying in the following areas:

Families need a high quantity of information flow in order to maintain positive interactions. Feelings need to be discussed and conflicts need to be resolved. The common pause day structure creates an overall environment in which positive interaction and resolution can take place. It takes time to gear down from the workday environment, and the weekend routine allows the appropriate transition time that all families need, especially in this

technologically advanced society. Of course, this is not to say that positive interaction cannot take place during the workweek, but the refuted "island of time" acts as a perceived sanctuary where closures can take place.

Although quantity of information is important, certainly its quality is also a high priority. It is stated that a ratio of three positive statements to each negative statement is necessary for a healthy family environment. The common pause day gives parents and children a perceived sanctuary of time in which the pace is reduced and anxiety is lessened and thus creates an environment more conducive to positive interchange.

One might say that the pressured realities of the workweek are tempered by the oasis at week's end.

1020

There is a well-established hierarchy of human needs that must be satisfied before self-actualization at the pinnacle can be realized. Yes, we need food, shelter and clothing in order to achieve the more satisfying elements of life. Our present structure seems to provide an abundance in the more basic areas, as well as nurturing the more enriching facets of life.

In the industrial age, money barons prospered but family life suffered and working conditions were unacceptable. Too great an emphasis was placed on the economy. It would be tragic if we, through legislation, would breach the sanctuaries that it has taken so long to enshrine and, through the destruction of the common pause day, plummet ourselves back to a less meaningful way of life. I believe past societies would have revolted at such oppression, yet do we invite it? We are wiser now, but so are they. Their melody seems to be more subtle, but the processional effect is the same: modern-day serfdom, a giant step backwards.

Let us not give up a lifestyle that centres on family, friends and meaningful community interaction. The family is the basic unit of our great nation. We need to do all that we can to nurture, support, strengthen, enrich and encourage everything that builds, enshrines and develops the family unit.

Mr. Warner: A number of problems in our society have resulted from our inability to foresee the ultimate conclusion of so-called advances. Two examples are urea-formaldehyde insulation and polychlorinated biphenyls. Both were initially welcomed with banners waving. Instead of fulfilling the dreams they promised, the results have been closer to nightmares. The issue we are addressing here is just as subtle.

As these hearings begin to wind down, we urge the committee to pause, consider what you have heard and invite the various groups that are interested to come together and, from their pooled resources, apply the best wisdom to the legislation to ensure the type of life we wish to have, 5, 10, 15 and 20 years from now. We urge caution lest we discover, to our regret, that we have lost something of far greater value to us as a people than what a few imagine we might gain. We would be pleased to assist in such an effort.

Since we began with a video, we are going to end with a video.

[Video presentation]

Mr. Chairman: Thank you. There are about nine minutes left, so there are three minutes for each caucus.

Mrs. Cunningham: Good morning, and thank you for a very strong presentation. I think we could probably do with that one every Monday morning no matter what the issue is.

I think it is probably very fitting that you were the first witnesses this morning on this very important bill because I think your colleagues across the province have made similar impressions on our minds with regard to the value of a common pause day. Every one of them has come forth and even gone so far as to assist us with what I think is the real issue here, and that is the lack of this Liberal government's either desire or will to communicate with the municipalities in Ontario and other groups on the definition of "tourism."

I know that is not the most popular topic for your group, but it happens to be the one which is receiving the most attention because it happens to be the one part missing from the present puzzle. I think the government has done a fairly good job in looking at some of the other problems in the legislation—I am talking about the fines; I am talking about the size of a drugstore—and we have been getting some good input there. But the real crux of the issue has been the passing of the responsibility to the municipalities, and I believe it is because it was not willing to define "tourism," which is the one small piece that is missing.

I know there are more important things for you to talk to us about today, but I really want to know how you feel about that, whether you think that would solve the problem and whether you would be interested in assisting us in not only that part but also perhaps some others. That, to me, is the issue we have to face.

Mr. Warner: First, we would be very interested in providing whatever help and assistance we could to define "tourism." I am not in a position to do that right now. I think there really needs to be representation from labour, from unions, from retail and from religious organizations. It is rather interesting, though, in thinking of Toronto as a world-class city, is it not true that Paris does not open on Sunday?

Mrs. Cunningham: Those would be the kinds of input we would be looking for from your group. In fact, the bottom line may be to drop it altogether, but that is not what we are hearing across the province. I agree with your example, though.

1030

Mr. Philip: Thank you for an excellent brief. If some of us look a little tired, this is our eighth week of hearings.

Mr. Warner: You have my sympathy and everything else.

Mr. Philip: The one thing that cheers those of us who are on the opposition side, and I am sure it would be of interest to you, is that the briefs are running 19 to 1 against the present legislation. So certainly a majority of people in Ontario seem to have the same views that you do.

I wanted to ask you a question about Bill 114. Do I take it from your brief that you are saying the argument of reasonableness—that is, that an employer, in fact, could make an employee work on Sunday under that legislation if it is considered to be reasonable—that section would be unreasonable in your view and that people should have a right to refuse work

on their day of worship, be it Sunday in the case of Christians, and Saturday or Friday in the case of other religious groups?

Mr. Warner: Yes, I certainly support your stand on that. I think that already happens, does it not, within our public school system. If a particular child has a religious holiday on another day than the school is closed on, he can take that holiday without being counted absent.

Mr. Philip: It also happens in the Legislature where we do not sit on days that are chief religious holidays of any member of the House.

My other question to you is: Would you agree that subsection 5(2) of the bill—that is the one that is the corollary of what we are talking about right now—which basically allows an employer to simply say that his religious preference is not that of Sunday but of another day, and to close on that other day and remain open on Sunday, is a loophole? I take it you would see that as a major loophole that would allow stores to open on Sunday. Is that correct?

Mr. Warner: I think that is correct, but then, to be totally honest, I think that is one of the reasons I, for one, would have to sit down with a group and understand from the people who put that in there what their reason for that is, and come to a consensus of opinion.

Mr. Philip: Your church is very large in the United States and throughout the world, but the United States, for the most part, has gone the open-Sunday route. Do you feel from your experiences in the United States that there has been damage or extra pressures put on families? Do you feel that we have a different type of society that perhaps should be worth preserving, so we should not go the route of the Americans?

Mr. Warner: That would be my personal feeling, yes.

Ms. Collins: In regard to Bill 114, are you aware that the Human Rights Code has a section which allows employees the right to refuse work on religious grounds?

Mr. Warner: Yes I am, but again it is the idea that if I have a certain belief, I would have to prove that to somebody. I think that is our concern.

Ms. Collins: Do you think there should be a reference in Bill 114 to the Human Rights Code in that section?

Mr. Warner: That probably would be a good idea, yes.

Mr. Chiarelli: Thank you very much for your brief. I certainly appreciate the television commercials which your church is publishing. I think it humanizes us all and makes us sit back and think a little bit. I think it is good, generally, in society to have that sort of thing.

Mr. Ballinger: All except Sam. It is too late for that.

Mrs. Cunningham: That was a very poor example.

Mr. Chiarelli: I am interested in your survey. You refer to the term "open-Sunday shopping." I assume that you and your respondents to the survey are using that terminology in addressing your minds to this issue. But I

wonder if you could be more instructive to this committee and perhaps a little more specific. Are you happy with the status quo in terms of what is open or closed on Sundays now? More particularly, would you prefer to see communities such as Chinatown in Toronto or Byward Fruits Market in Ottawa, closed on Sundays? Would you want to retrench in terms of commercialization of a common pause day or are you happy with the status quo? Can you elaborate a little on that?

Mr. Warner: May I answer that in two parts?

Mr. Chiarelli: Certainly.

Mr. Warner: I think, in the first part, the answer would go like this: If we were a totally isolated community, body, whatever, what we would do in that situation is different from what we would do if we found ourselves, as we do, living with others. Again, I think in the society in which we live, there may be a need to have certain places open on Sunday. Do you see my problem?

Mr. Chiarelli: Yes, and I am sure you can see our problem too, by reason of that question. That is why I am asking the question.

Mr. Chairman: I also have a problem, in that the time allocated has expired. I apologize for that. I would like to thank you as well. Those commercials pop on my television from time to time and they certainly make me think twice about not only my attitude towards my wife and my children but also my dog.

Thank you very much for coming forward. We appreciate the information you provided to the committee.

Mr. Warner: Thank you. We appreciate being here.

Mr. Chairman: The next delegation to appear before us is the F. W. Woolworth Co. Ltd., Keith Elliott, director of public affairs. Mr. Elliott, would you like to have a seat? We have had a copy of your brief distributed to each member of the committee. You have 30 minutes. It is your time. We are here to listen to you and others and you can present your brief in any way you wish. If you wish to use the entire 30 minutes, that is your prerogative. If there is time left over, however, as you will note, it will be equally divided among the different representatives of the three political parties on this committee, and they will have an opportunity to ask you questions, to make statements, what have you. Perhaps you would like to proceed.

F.W. WOOLWORTH CO. LTD.

Mr. Elliott: Thank you. My name is Keith Elliott, director of public affairs, and it is my pleasure to present my company's position to this committee. In an increasingly pluralistic society, the responsibility of providing laws and regulations designed to achieve harmony and fairmindedness in the marketplace is extremely difficult to achieve. Nowhere is this more evident than in the area of Sunday shopping.

It seems clear that no one—consumers, business or government—wants to see a complete shutdown of retail services any day of the week. At the same time, Canadians somewhat paradoxically do not support wide-open shopping, which leaves government agencies the unenviable task of finding an acceptable balance, if in fact one exists, when writing regulations.

Most regulations provide exemptions for special service businesses like prescription drugstores, gasoline stations and convenience stores. Most people do not quarrel with this basic decision. In fact, consumers need to have these essential services available to them in emergency situations. However, it is doubtful that the regulators intended that chain stores like Shoppers Drug Mart, Canadian Tire and Loblaws superstores, just to mention three examples, would be considered to be the simple pharmacies, gas stations and convenience stores they had in mind when the regulations were framed.

Clearly, the merchandise assortments carried regularly by these chain stores are virtually indistinguishable from other stores not allowed to open. One can purchase almost anything in each of these operations and the assortments are getting broader every day.

To companies like our own, it does not seem beyond the capabilities of regulators to frame regulations precluding this type of chain-owned or chain-operated business from being open on Sunday. If, on the other hand, the regulators choose not to exclude this group of major chain retailers, then the entire effort, in our opinion, should be abandoned and the governmental body should opt for wide-open shopping on a seven-day basis.

1040

The present-day F. W. Woolworth Co. is a complex, far-flung organization which has served Canadian consumers from coast to coast for several generations. Our first store, in fact, opened in Ontario in April 1897. Because of the nature of our business, we conduct literally hundreds of thousands of individual customer transactions every working day, and we are proud of that long history and record of experience.

We already have considerable experience with Sunday shopping in British Columbia and Alberta in Canada, and we can call on similar experience in our parent company's stores outside this country.

We are opposed in principle to Sunday shopping, but we will open our stores on Sundays in response to pressure from our competitors in order to protect the jobs of our employees. Market share protection is a very important reality in retail store marketing. If a competitor opens for business, we believe it is a marketing imperative that we open as well. To do otherwise can set in motion a store loyalty consumer response which can have disastrous consequences to the business and its employees.

However, Sunday shopping in and of itself in most locations is not necessarily a profitable course of action for the retailer. There are a great many variables in explaining this result, but as this commentary is not intended to be Retailing 101 as taught in a business education context, perhaps you will take this statement on faith. Sunday shopping, in many cases, is not a profit-expanding opportunity.

The consumer is attracted, under recent experience, by a host of Sunday specials offered by a few retailers who benefit from the fact that their six-day competitors are not open, and they become the only game in town. Under such circumstances, they offer what I would categorize as an artificial benefit for a limited period of time. Over the long haul, if every competitor were open, neither they, nor we, for that matter, could afford to continue such practices.

A great deal has been said and written about staffing stores for Sunday

shopping. A hue and cry has gone up in some circles regarding the need for protection of employees in this regard.

We have not had trouble staffing our stores so far on a voluntary basis. Sunday work has been offered first to full-time staff and second to permanent part-time staff, filling in our requirements with new hires who only work on Sundays. We do not offer premium wages for Sunday work, but we do, of course, satisfy regular weekly hours of work regulations. It should not be surprising that this would be so. Many—in fact most—employees choose to work hours to satisfy their home lifestyle, and their preference is often not the traditional work hours which you might assume. It is only necessary that it makes sense to them. The net result is that staffing a store for Sunday hours on a voluntary basis is really not a difficult thing to do.

The quality of life in the career of any employee, regardless of where he or she works, is not only an important factor; it is probably the most important factor in choosing their career path.

Retailing is already a demanding business and we believe our employees deserve back-to-back days off. It appears, however, that one should not necessarily assume that the two days of preference are Saturday and Sunday.

Much has been said about the announced initiatives of the Minister of Labour (Mr. Sorbara) with respect to the protection of employees. While the government may have its own reasons for wanting to promote such legislation, in our experience, as outlined above, these initiatives are not relevant to the Sunday shopping issue.

In the past dozen years, in every city across the country, we have witnessed the remarkable increase in two-income families. It is now more the exception than the rule when only one of the marriage partners holds a full-time position. This, of course, has added a number of pressures to modern household management. The greatest of these, perhaps, is the pressure of time; time to get everything done. We believe most families would rather have the opportunity to shop every evening until 9:30 or 10 p.m. over the chance to shop on Sunday, when they would rather attend a religious service or simply relax as a family.

On balance, we remain opposed to wide-open Sunday shopping for the following reasons:

Retailing is a highly competitive business in a mature industry. No one can afford to stay closed when legitimate competitors are open, not if he hopes to protect the jobs of his full-time employees and his position in the industry.

Sunday shopping does not increase the total amount of disposable income spent on general merchandise. Therefore, there is no total economic gain but merely a shift in market share among competitors.

Sunday work seriously affects the quality of life for full-time workers and store management who would otherwise spend this time with their families in recreational pursuits.

There is very little evidence that consumers want Sunday shopping or need more than the 70 or 80 hours per week currently available in which to shop in most areas of the province and in the country.

Recently, religious leaders of several denominations have spoken out denouncing the provincial government's direction. I was happy to witness the presentation just completed because it speaks to that issue of what is necessary to keep the fabric of Canada together.

Retailers, large and small, have also spoken out condemning the government's proposals. Other groups speaking out on this issue include social workers, women's groups, seniors' organizations, the consumers' association, day care workers, police and public transportation groups, chambers of commerce and local business improvement associations.

At the time this was written, we intended to distribute copies of this position paper. Now those copies have been distributed to the staff in our Ontario stores and we have encouraged those who share the same concerns to make their wishes known to their local member of provincial parliament and to the Solicitor General (Mrs. Smith) and to the Minister of Labour. The company will provide and has provided postage to employees who want to make their personal opinions known.

The province of Ontario has regrettably gone ahead with Bill 113 despite the report of an all-party committee of the Legislature, which had this to say: "The committee supports the principle of a common pause day. The legislation should therefore be structured to support the maintenance of a day of rest."

In September 1987, and since then, the Association of Municipalities of Ontario, a group of 675 municipal officials, agreed on the following statement: "Be it resolved that municipalities should not be charged with the responsibility of regulating retail store openings on Sundays and holidays."

Despite these reasoned requests, the government in Ontario is proceeding with legislation which will force each municipality in the province to adopt its own bylaws. We believe this will result in patchwork regulation which will be chaotic to consumers and business people alike.

The recommendation of our company would be that stores should be allowed to open as early as 5 a.m. and allowed to remain open Monday to Saturday until 9:30 p.m. Stores other than those in essential services should remain closed on Sundays as a common day of rest. Those stores allowed to open on Sunday should be limited to a maximum of 2,500 square feet and five employees with no more than three stores within the province under the same ownership. Stores, other than essential-service stores, should remain closed on all statutory holidays, but we believe Boxing Day should be excluded from the list of statutory holidays.

These comments are respectfully submitted.

Mr. Chairman: Thank you very much, Mr. Elliott. There are six minutes and 20 seconds available for each caucus. I have Mrs. Cunningham and Mr. Cureatz sharing that, and Mr. Hampton and Mr. Philip sharing theirs for their caucuses. Who is going to go first?

Mr. Cureatz: I will. Thank you for your presentation. Might I say it was very succinct and to the point. It is good that we are back here at Queen's Park and this particular room where we are now being broadcast again, so those individuals who are flicking the TV channels might pick us up. On our tours across the province, sometimes we get isolated in communities and we forget about the broader perspective. I think it came crashing home to us with

your presentation in terms of what I would call big business. I appreciate you coming forward. We have been noticing more and more as we have been pursuing this topic that people are coming out of the woodwork and expressing their thoughts and concerns.

I could continue on with a great soliloquy; I will not, but I will say this to you. With your presentation you are talking about two aspects: the lifestyle aspect, about which we have heard from many religious leaders across the province; then you throw to us the possibility of alleviating the problem of Sunday shopping in your recommendation on page 7 of opening early and closing later during the other six days. Is that what you are basing that thought on—

1050

Mr. Elliott: I am not really suggesting that our particular company has any thought or intention of opening at 5:30 in the morning, but we think for smaller retailers particularly, dry cleaners and folks like that, there is business to do at that time because of the way people live today; they are in transit. It is a convenience to consumers and they should be allowed to do so if it makes economic sense. It is not our intention, though, to open our stores at 5:30 in the morning.

Mr. Cureatz: No, but I feel very comfortable that you have made the extra effort by saying: "Look, we still feel very concerned about Sunday and we think other people do, too. Therefore, how about this as a possibility?" I think that is a great opportunity this Liberal administration could pursue which it is not at the moment.

Mr. Chairman, Mrs. Cunningham will, if there are a few seconds left, ask a question.

Mr. Chairman: There are four minutes left.

Mrs. Cunningham: You made a very strong statement on page 2 that you are opposed in principle to Sunday shopping but will open your stores on Sundays in response to pressure from your competitors. That is to protect the jobs of your employees. I am assuming, therefore, that you feel the domino effect of this particular proposed legislation is very real. I should warn you that my Liberal colleagues on this committee do not agree with you, but I would like to give you this time to speak to that issue.

Mr. Elliott: We think it is a very real one. We are a public company. We have shareholders. We have a responsibility to them to protect the investment. That is on the business side of things.

On the employee side of things, we are very concerned about offering and providing a career opportunity for people in retail. This is not only management people but simply full-time salespeople in our stores across the province and across the country. They have, if they join with us, a right to expect some reasonable concern about their employment with us and we feel that as strongly as they do. There is not anything much, though, we can do if our major competitors are allowed to open. We do not have any option other than to open along with them or pretty soon people develop different shopping patterns and different habits and it is very difficult and expensive and not always possible to bring that back to the health it had before the problems took place.

This very much affects the future employment of people who have been fair with us and we want to be fair with them. It is basic living together. We are very concerned about that. With our individual store managers, many of whom have been with us for 25 and 30 years in a job that is not an easy one to begin with, we think we should be doing everything possible to give them the best that is possible in this industry.

Mrs. Cunningham: I guess the concern you have stated to us today is the one many people across the province have stated, that is, that if your competitors are open with this municipal option you will choose to open as well.

Mr. Elliott: It affects a lot of smaller merchants, too. When the chains are against each other, somehow or other they survive but the independent who feels the same way our company does about Sunday shopping does not have a lot of choice. We think there are some tremendous pressures put on those family businesses. That is not something you might think we would be considering or concerned about but we are not as bloodthirsty as some people think big business is. We have a concern that the whole economy of the country has to be stable and that everyone has a part to play in it. We think we are capable of getting our share of that under normal rules and regulations.

Mr. Cureatz: Just reviewing your brief, I did not see any specific mention, actually, of the local option. I might be wrong; I just quickly had another look at it. Of course, my Liberal colleagues are going to be pointing out to you that your concerns are unfounded, because it does not necessarily mean that the municipality will allow open Sunday shopping. I missed that in the brief. If it is there, I apologize. If it is not, I wonder if you might just expand on that a little bit.

Mr. Elliott: I am afraid expansion will not be very expanded. That is briefly—

Mr. Cureatz: That means you are allowed about 30 seconds.

Mr. Elliott: If it would be helpful for you to have any further comment from our company in that regard, I would be happy to be at your service.

Mr. Chairman: We move to Mr. Philip and Mr. Hampton. Which one of you gentlemen would—

Mr. Cureatz: You are not finished yet. You are going to have another round. Maybe you can work in the answer.

Mr. Philip: Thank you for an interesting brief. Like so many other merchandisers, you have come out against Sunday shopping. In British Columbia, where the municipal-option legislation was introduced, your company is operating quite successfully. Can you tell me how many of your stores are open in British Columbia as a result of the domino effect of the municipal option?

Mr. Elliott: I do not have the numbers, but we do not have the concentration of stores in British Columbia that we have in Ontario. I can get the numbers for you; I just do not have them.

Mr. Philip: Would it be fair to say that the majority of your stores in British Columbia are now open on Sunday?

Mr. Elliott: No. As a guess, and it is only a guess, I would say it is about 40 per cent open and 60 per cent closed.

Mr. Philip: And the 40 per cent open would be in those 54 municipalities that are now in the main population areas in and around the Vancouver area, adjoining Vancouver and Richmond.

You make an interesting point on page 5, which is the convenience to the consumer of shopping in the evening. In western Canada, as a result of the kind of legislation that we have had here, we understand that stores are actually closing in the evenings in order to make payroll, in order to be able to remain open on Sunday.

Is it your expectation, that if this legislation is introduced here, you may have to close earlier some evenings in order to make that Sunday payroll, and therefore there would be less convenience to the consumer?

Mr. Elliott: No. I could not lead you to feel that would be our experience. We would probably be open where we feel we have a competitive need to be open, albeit reluctantly. It is really hard to make a judgement call on that at this point.

Mr. Philip: I have one last question. That being the case, since you would obviously have to be open more hours, one can assume that would cost you a considerable amount in terms of extra payroll, maintenance costs, etc. Since you point out that there is a limited number of consumer dollars available, can one assume that your costs would be higher? Do you have any idea what the increased costs would be as a result of being open those extra hours, and would they be passed on to the consumer?

Mr. Elliott: Initially, in your scenario, what would take place is that it would not be economically viable to open some of those stores. That suggests that higher costs, and so on, would force you to raise prices. What actually takes place is if you are going to be open you get into a strong sales and promotional advertising program to develop the volume and expand that market as best you can. Whether or not that is, as I say, taking it away from competitors, that is the most likely event because there is only so much money around.

Mr. Philip: So you are putting somebody else out of business?

Mr. Elliott: If we are going to be open, we are trying to maximize the cost with the sales promotional programs that will make it viable.

Mr. Philip: Thank you.

Mr. Hampton: I especially appreciate the fact that you have come here today because I think we need more evidence such as your own—someone who knows the retail market, someone who knows how the competitive market operates. I think the government has offered very little evidence on how the retail market operates or how the competitive business pressures operate. It wants us to take it as an article of faith that there is no such thing as a domino effect. Therefore, I appreciate your efforts to be here today.

How many stores do you have in Ontario? I do not need to know the exact number.

Mr. Elliott: In the province totally, 163.

Mr. Hampton: Is there a general rule as to their location? Are they located in medium-sized cities, small towns?

Mr. Elliott: We probably have a presence in the province in every community above 20,000 population and many less than that number.

Mr. Hampton: I see. The way a councillor in my community put it to me was, "If this local option passes, we anticipate we are going to be bombarded by every individual who thinks he can get one up on somebody else." In other words: "Why don't you pass a bylaw to allow my special kind of store to open? If you do that, I think I can increase employment or I can increase the market." He feels that is what is going to happen. He feels the next result after that, if you make a few special rules for a few special stores, is that companies like yours or Metropolitan or Stedmans or Macleod's or Canadian Tire will be the next one knocking at the door. How do you feel about that?

Mr. Elliott: One of the things that I think should be looked at is the assortment of merchandise that a competitor carries now versus what he chooses to carry if he is allowed to open under some clause like pharmacy. If you look at the non-drug-related, if you understand that as a kind of general phrase, and if you look at the assortment of merchandise that those stores now open on Sundays carry, you will find that they have probably a big assortment of electrical appliances, wiring products and all those kinds of things, light bulbs and so on, that they never used to carry in any broad assortment.

But now, when they are the only store in town that is open that day, they have a demand for all those products and they expose their square footage to that. If you have some stores open and some stores closed, you will find that those stores that are open under some restrictive provision tend to expand the assortment of their merchandise to include things they never used to carry.

Mr. Hampton: Thank you.

Mr. Chairman: Mr. Kanter has 6 minutes and 20 seconds.

Mr. Kanter: I am just proceeding from your last point about stores offering merchandise similar to yours. You mentioned quite specifically drugstores and you mentioned Shoppers Drug Mart. We were certainly aware of that concern and we suggested in our legislation that drugstores be limited in size to 5,000 square feet to allow for prescription purposes and also for some related convenience-type goods. Would a provision like that not go a long way to allay your concerns about the problems that are occurring right now in the marketplace?

Mr. Elliott: It would do something for it, but there is the feeling in our minds and I think in a lot of other people's minds, that government regulation should not only be fair, but should be seen to be fair. If one type of store can carry whatever it wants to carry and the only restriction is size, that would suggest that everybody is going to have a smaller store. I do not think that serves the community.

Mr. Kanter: Let me just see if we can pursue that and see where you are leading, because there are a tremendous number of so-called convenience stores at about 2,400 square feet. I take it from one of your suggestions that

the Mac's and Becker chain convenience stores—and there are a large number of those chains—in your view, should be shut down. Is that correct?

Mr. Elliott: No. I think they should change. Our feeling is that small, independent merchants—and many of them are within these chains—should have an opportunity. If they are prepared to work these extra hours and so on, this is a day when they have a chance to develop some trade that they do not necessarily have through the week in terms of percentage.

Mr. Kanter: You are quite correct. There are a number of the convenience stores that are independently owned, but we have also seen statistics that indicate that a large number of them are part of chains. I take it that your view, and you represent a merchandiser who has large stores rather than small stores, is that a chain which operates a large number of small stores, which are now permitted to be open in Ontario and which have been open for some time, should be shut down or change their—

Mr. Elliott: Franchise.

Mr. Kanter: Is that your view? Okay.

I was very interested in your comments on page 3 that dealt with staffing of your stores and your comments that you as an employer who operates some stores that are open on Sunday have had no difficulty in getting employees on a voluntary basis. That has been a point of some contention before this committee.

I would appreciate—I think Mr. Philip or Mr. Hampton referred to this point—knowing the number of stores and the number of employees involved. It seems to me, and I appreciate that your position is opposed to Sunday shopping, your experience has been that where your stores are open in western Canada quite legally, you have not had any difficulty in getting people to work on a voluntary basis. I would be very interested in the number of stores where this in effect and the number of employees that are affected by this pattern. That is just information that I would like you to provide.

The part of your brief that I am in some sense most interested in—because I think it really goes to the basic, philosophical question or problem that is before all members of this committee—was a comment that I saw on page 5 dealing with store hours and when you thought they should be open.

It is not so much the substance of your proposal that I want to look at—that they should be open longer in the evenings and shorter on the weekends—but rather, who should decide? It seems to me that in many ways this gets to the real crux of the question. I guess the question is, who should decide when stores are open? Should it be the government, municipal or provincial? Should it be the retailer? Should it be the consumer? Or should it be some combination thereof?

It seems to me that in your brief you suggested that the retailer should decide. I am just wondering what role there might be for others.

Mr. Elliott: The comment was offered as some help to the committee. We believe that the provincial government should provide uniform store hours for the whole province. Some of those ideas and programs could be included in it. This allows stores to open. It does not say that they must open.

Mr. Kanter: Similarly, I would suggest to you that this government,

after considering this question—I certainly agree with your opening statement that it is a difficult matter—believes that it is providing the best balance in laying down a Sunday closing framework province-wide but allowing local municipalities to vary that framework. Local governments presumably will listen to local retailers and perhaps to consumers and others. This is not a matter that should be decided by retailers and government, but rather one in which consumers should have an important say.

Mr. Elliott: With respect, we believe that the province has that responsibility and it is ducking it.

Mr. Chairman: We appreciate your coming forward and giving of your valuable time to bring that information to this committee. The next deputant we have appearing before us is from Miracle Food Mart, Bob Winstanley. Have I correctly pronounced your name?

Mr. Winstanley: Yes, thank you very much.

Mr. Chairman: You are the director of marketing projects. We have your brief in hand. As you may or may not have heard, we are here to hear from you. It is your 30 minutes. You can pursue the presentation in any way you wish. You can use all of that 30 minutes if you wish. That is your prerogative.

If there is time left over, I will attempt to judiciously allocate it equally among the three party representatives on this committee. If you would like to proceed, Mr. Winstanley, we would appreciate it.

1110

MIRACLE FOOD MART

Mr. Winstanley: I appreciate the opportunity to make a presentation this morning to this group. The presentation is brief; however, not in substance. I wish to read through it.

Miracle Food Mart employs 10,000 people in its 71 food stores and support organizations in Ontario, and we recognize that Sunday shopping is a very sensitive issue. We neither support nor oppose Sunday shopping. Our concerns relate to clarity, equality, fairness, uniformity and strict enforcement of the law, whatever it might be.

All interested parties agree that the present legislation dealing with Sunday shopping is not satisfactory. The current legislation favours some types of retailers such as convenience stores, drugstores or those located in municipally designated tourist areas. The current legislation is difficult to administer and has loopholes which were never intended by the original authors. The government has recognized the unfairness in the marketplace and has endeavoured to provide equality to all retailers.

The Retail Business Holidays Amendment Act has resolved many of our concerns dealing with clarity, equality and fairness. The Retail Business Holidays Amendment Act has addressed the confusion and the unequal and unfair treatment of competing businesses to that point.

We believe, however—and this is a large however—that the inclusion of section 4, on municipal powers, in the Retail Business Holidays Amendment Act will result in locally created inequality and unfair treatment of competing businesses. Different municipal councils will employ unrelated criteria in

implementing bylaws and may indeed create inequality and unfairness within the local community itself. There will be no uniformity. Businesses operating in some municipalities will enjoy a competitive edge over those operating in other municipalities. Some businesses operating in the same municipality may receive preferential treatment over other businesses in that municipality.

Fines imposed for violations of the act should be uniform. There should be no ability to vary the amount of the fine at the local level, which is outlined in the proposed act. Businesses which operate throughout the province are entitled to do so on the same terms in each municipality. Allowing some businesses in some areas of the province to open and compelling the same businesses in other areas to close will result in bitterness, confusion and unfairness. Uniform province-wide rules concerning Sunday shopping will ensure equal, competitive opportunity to all businesses. Continued discrimination will adversely affect the future of our employees and our company.

To permit or prohibit shopping on Sundays and holidays should be the decision of our elected provincial representatives. In implementing their decision, they must ensure that the existing discriminatory provisions are removed and that new ones are not enacted or permitted.

We thank you very much for allowing us this opportunity.

Mr. Chairman: That was a brief brief.

Mr. Winstanley: It was.

Mr. Chairman: There are nine minutes for each caucus.

Mrs. Cunningham: Welcome to the standing committee on administration of justice hearings on Sunday shopping. I am hoping, like you are, that in the end justice will be done. I underlined your big "however" on page 2. I do appreciate, in fairness, the comments you made at the beginning of your presentation, which was that some of the legislation is addressing the problems of today. We, as the Progressive Conservatives on this committee, certainly agree with you on that.

However, we share your greatest concern of all, which is that municipal option. I should tell you that the fact that there will be no uniformity is not of concern to my Liberal colleagues on this committee. They believe so strongly in the municipal option and local autonomy that they really think that is a good thing. The fact that you are saying there is no uniformity, which, of course, is of concern to me, is really not their greatest concern at all.

Are you concerned there because you think, first, that the common pause day is important enough to enshrine in the legislation of this province? Are you more concerned, or equally concerned, about this domino effect people have been telling us about? I really have two questions. Answer them any way you prefer.

Mr. Winstanley: Our concern is with equality, equality no matter what happens; that we do not have the discrimination currently in effect. The concern is with equality, however it comes down; fairness in the retail sector.

Mrs. Cunningham: Therefore, as you stated, you are either in favour of all the stores being open on Sunday or stores being closed; I am assuming with the exceptions which are already in the act which you have not spoken to.

Mr. Winstanley: Under the proposed amendment?

Mrs. Cunningham: Yes. Under the proposed amendment and under the present act there are numbers of exceptions, gas stations, the whole thing.

Mr. Winstanley: There are a number of exceptions under the present act that are totally unacceptable to us which, to a large degree, are cleared up in the 1988 amending act. That part, as I say in the brief, we commend the government for doing.

Mrs. Cunningham: So you are now concerned about the exceptions that may take place because of the local municipal option?

Mr. Winstanley: Absolutely. Page 2 makes that clear.

Mrs. Cunningham: So you are making a very strong statement that you feel with the local option that some stores will be open in some communities and therefore forced to open in other communities or not allowed to be open in other communities because of the local municipality? Is that your statement?

Mr. Winstanley: Yes. I think that is fair. If we look at what happened to some of the tourist exemptions, our fear is that that would be exacerbated.

Mrs. Cunningham: Okay. Let's follow through on the tourist exemptions. The real reason for the municipal option here is because the government has said that the present act cannot be enforced and, of course, we are saying the government is not trying to enforce it. There are flagrant exceptions or rejections of the law in many communities now that could be enforced that are not enforced. Some municipalities are enforcing; others are not. We are saying they have not enforced them, but we are happy with the provisions they have made there to make them more enforceable too.

But the tourism one is of great concern across this province, because they are saying they cannot define tourism. The tourist industry is a very large industry. They will be coming to us next after you. Because they cannot define it, they are saying the municipality can worry about everybody else. Are you prepared to assist us with this definition of tourism since you are so concerned about it? How do you feel?

Mr. Winstanley: We are more than pleased to do that. Both myself and most of the other people in the supermarket industry would be pleased to. Our view in simple terms is that if it is a tourist area, then it is exactly that: It is open for everybody. In other words, it is a simple process.

Mrs. Cunningham: We would very much appreciate your assistance, along with the assistance of the Association of Municipalities of Ontario. I firmly believe that is where we have to go with this legislation because there is so much opposition to it. We are going to have to look at the definition of the tourist area. I thank you for your presentation this morning and your strong opinions.

Mr. Cureatz: You are director of marketing projects. That sounds like a pretty big title, something that the Liberals hand out to the backbenchers over there to make them think they are doing something when they are not really, but I am sure you are doing something. Does that cover the province?

Mr. Winstanley: Yes.

Mr. Cureatz: How many stores would that involve?

Mr. Winstanley: There are 71, as I say in my brief.

Mr. Cureatz: And approximately how many employees?

Mr. Winstanley: There are 10,000.

Mr. Cureatz: Have you contacted or made some effort with your employees concerning this legislation?

Mr. Winstanley: Yes.

Mr. Cureatz: Did I miss that in the brief?

Mr. Winstanley: No.

Mr. Cureatz: In what form and manner was that done?

Mr. Winstanley: We have discussed this with our store managers and a number of our employees. Their concern clearly surfaces in this document. Their concern is that somebody is allowed to sell a product identical to what they are allowed to sell on Sundays, thereby threatening their job.

Mr. Cureatz: Of course, as my colleague has indicated, with the local option, you could very well have across the street one municipality open on Sunday selling a product similar to the one you have, whereas your store, being on the other side of the street, would not be able to sell it and not be open on Sunday. I think you appreciate that.

Mr. Winstanley: I think we said that on page 2.

Mr. Ballinger: You will have to excuse Sam. He is a lawyer.

Mr. Cureatz: Listen, this is an important trial here. This is legislation brought forward by the Liberal administration and we are showing the fine people of Ontario, as this is being broadcast, how archaic and silly it is. We are doing our best.

Mr. Chairman: Through the chair.

Mr. Cureatz: It is so difficult.

Your employees, do you think they would want to work on Sunday or would you, and would you favour a common pause day?

Mr. Winstanley: Is that question directed at me personally?

Mr. Cureatz: Yes, and do you think you can reflect the concerns of your store managers and employees about working on Sundays?

Mr. Winstanley: My own concern is that I work six days a week now and probably I would end up working seven days a week. That is the real world.

Mr. Cureatz: Would you be supportive of a common pause day?

Mr. Winstanley: Would I be supportive of a common pause day?

Mr. Cureatz: Are you from Ontario?

1120

Mr. Winstanley: Yes. I was born here in Toronto. I believe a common pause day, if it is administered in a fair and equal way, would be a workable solution.

Mr. Cureatz: I appreciate that very much. I appreciate your attendance especially. In terms of what one would call big business coming forward, F. W. Woolworth Co. indicated it had suggested its employees contact their local MPP's office or the office of the Solicitor General.

I strongly urge you to consider calling the Office of the Premier to reflect your concern, because that is the kind of influence which is going to have to be exercised to turn this legislation around. The Treasurer (Mr. R. F. Nixon) is a strong proponent of this legislation. He has been a member here for a long time and now he is finally in power and is trying to ram this into legislation. We have to try to do our best to stop it. That would be a further alternative. When the Premier (Mr. Peterson) hears it is Miracle Food Mart phoning with a concern, he will get on the phone and talk to people. When all kinds of organizations such as yours are doing that, we are going to have the possibility of his maybe reviewing the local option.

Mr. Philip: I want to thank you for appearing. It is a pleasure to have people like you who know the business and who can understand the effect of this legislation on you and your employees. I can tell you that I shop in one of your stores, and the employees I talk to certainly do not favour this legislation.

I want to ask you some very practical questions concerning the extra cost to you if this legislation goes through. Some of my friends who are in the business inform me it will cost them between five per cent and 15 per cent as a result of extra salaries they will have to pay to be open the extra day, without an appreciable increase in volume of sales. Is that a realistic figure from your business point of view?

Mr. Winstanley: No, it would not be a realistic figure.

Mr. Philip: What would be a realistic figure?

Mr. Winstanley: It would be a much smaller figure than that.

Mr. Philip: What figure do you feel—

Mr. Winstanley: Each individual location would have to be evaluated on its own merit. If it were anywhere near the number you suggest, we would not open that location at all even if it were legal.

Mr. Philip: You would not be afraid of losing customers or losing a customer pattern of shopping in your store?

Mr. Winstanley: At the cost you mention—and the cost would not be near there—that would be the case. I think the issue would be that we intend to satisfy our customers. That is what we are there for. Right now, there is a position in the marketplace which allows other retailers to operate on Sundays

and satisfy these customers with exactly the same type of offering. In the repatriation of those sales, if we were to be open Sunday in this hypothetical question, we would have to sit down and look at it and define exactly what it meant.

Mr. Philip: I do not want to get into too many technicalities of your business, but who are you talking about—Herbie's, people like that?

Mr. Winstanley: You can do that; you can put those out. They cost a fortune. The items are bread, soft drinks. They are our items, 12 stores operating. That is why I would like to get back to what we did bring out, that is, that right now there is an unfairness. Rather than follow what we are getting at, the costs, etc., our issue and our intention in bringing this brief was to highlight the unfairness out there and to clearly get at what must be corrected. That is the best possible thing we can do for our employees.

Mr. Philip: Even at 10,000 square feet, though, the Herbie's of this world, that is, the grocery stores which some would suggest are masquerading as drugstores, would be out of business, because the ones which are really selling groceries, bread and so forth, are 15,000 square feet and up.

Mr. Winstanley: Most of them are around 30,000; some of them as high as 45,000, yes.

Mr. Philip: I think we are in agreement there. You are not talking about Shoppers Drug Mart, which has presented evidence over and over again. We have questioned their individual pharmacists about the volume and what they do sell on Sundays. For the most part, it amounts to pharmaceutical or pharmaceutical-related things. They are not selling bread and they are not selling cold meats and things like that.

Mr. Winstanley: In their new model, they are.

Mr. Philip: Those are the ones, though, that are over 10,000 square feet.

Mr. Winstanley: Yes.

Mr. Philip: Okay. I believe you are unionized, are you not?

Mr. Winstanley: That is correct.

Mr. Philip: If you are open on Sunday, are you going to have to pay time and one half under your collective agreement?

Mr. Winstanley: Our collective agreement has a provision for overtime in there.

Mr. Philip: What about for Sunday time, though?

Mr. Winstanley: It has language for Sundays. There is a premium paid.

Mr. Philip: Even if an employee is working only 40 hours per week, if one of those days is Sunday, then he would have to be paid overtime.

Mr. Winstanley: Absolutely.

Mr. Philip: So this is bound to be an increased cost to you as a merchandiser.

Mr. Winstanley: Yes, I said there was a cost.

Mr. Philip: You just disagree with some of the other merchandisers that it would be as high as 5 per cent to 15 per cent.

Mr. Winstanley: That is right.

Mr. Philip: And that cost would have to be passed on to the consumer, unless your profits are so wide that you can take it out of there. It has to come from somewhere.

Mr. Winstanley: They are not that wide. Through operating more efficiently, there are ways you just have to attack costs, because you certainly cannot go to the marketplace and raise prices.

Mr. Philip: It has been done before. There are only three places to take it out of. One is out of your profits, one is out of your employees and the other is out of your consumer. A fourth might be out of increased volume, but most people in the food end of the retail business are saying there is not going to be that much increase. There will be some increase from the smaller stores, the small delicatessens, bakeries and that kind of thing.

Some of the people who have appeared before us who are in the merchandising business are saying that one of their concerns is loss of staff. I do not know what your wages are, but if a person is paid \$12.50 per hour in your store and has to work both Saturday and Sunday, and he can, at the present time in Ontario, get \$12.50 per hour in manufacturing widgets, why should he work in the retail business and give up his Saturdays and Sundays? Is that a concern to you?

Mr. Winstanley: Attracting employees is a concern to us at all times. Currently, we have no difficulty getting people to work on Sunday on a voluntary basis.

Mr. Philip: That is because you are paying time and a half.

Mr. Winstanley: Yes.

Mr. Philip: Do you think that out of a sense of fairness then, since some of your competitors will not be paying time and a half for Sunday—at least they have not on the few occasions when they have stayed open, that small trial period—would it be reasonable to have an amendment to this legislation that would require at least a minimum of time and a half for Sunday shopping? Does that help to equalize you with the nonunionized merchandisers of food?

Mr. Winstanley: I am glad you asked that, because I think you appreciate that there is an advantage between the two. Yes, I think on page 3 it is implicit that it be equal, that there clearly be equal ground rules provided.

Mr. Philip: You talk about that in terms of equalizing across the province. Therefore, the municipal option would create even more inequities within the retailing business.

Mr. Winstanley: Absolutely.

Mr. Philip: Business people tell me—and when I was in the

consulting business I knew—one of the worst things is not knowing what the rules are. Therefore, you cannot plan. I am sure you do not plan by municipality, because you are a large operator. You are across Canada and, of course, across Ontario. By going the municipal option route, does this not create a certain amount of instability, a certain amount of chaos in your market which is very difficult for you as a corporate planner in terms of making long-term plans? How does it affect your management plans?

1130

Mr. Winstanley: I think we dealt with that on page 2. It would be very, very difficult to do because there would be many different terms of reference applied. We find that—and we speak to that issue—is just not acceptable to us.

Mr. Chairman: Ms. Hart. Nine minutes.

Ms. Hart: You talked about equity being what you are primarily concerned about. Can I explore with you just for a moment the current act, not the act as proposed? The reason I want to do this is that we have heard brief after brief after brief saying the current act is "fine, leave it alone; the only impetus for change comes from big mall owners; it is some half-baked idea the Liberals have come up with;" and yet your brief does not say that. It does not look as if you were terribly happy with the current act and there might be some reason to reform it. Can you expand on that a little? You do touch on that in your brief.

Mr. Winstanley: We are very unhappy with the existing act and we have made numerous depositions to various MPPs and cabinet ministers to that extent, as a number of people have.

The current act allows this to happen; that is the problem with the current act. The current act has a provision around, I believe, and I have it here, roadside fruit stands. If you take that terminology "roadside fruit stands," I can show you some in the province right now that are 45,000 square feet that probably cost \$4 million to build. In March, when they are allowed to open, probably 95 per cent of the product is coming from California, Florida, Mexico, Honduras, Spain, Italy and North Africa. It certainly is not local. That is the same product we are selling in the six days, and the preference of the public to buy that product on Sunday is the impetus for people to build those kinds of places to operate on Sunday.

Ms. Hart: So you can see some impetus to make some changes in the Retail Business Holidays Act?

Mr. Winstanley: Yes, as long as they are fair.

Ms. Hart: The other part of that question had to do with the big mall owners. We have heard a lot of vitriol directed against big mall owners—we have had only one appear before us—and we hear they are really the ones who have most to gain in the changes proposed. Do you have any views about that?

Mr. Winstanley: No. We operate a number of free-standing locations and it is not an issue.

Ms. Hart: You touched, with Mr. Philip, a little bit on drugstores. You know that in this act we propose there be a 7,500-square-foot exemption—

Mr. Winstanley: No, 5,000, I believe.

Ms. Hart: Excuse me, 5,000. I am totally confused. We have heard so many—

Mrs. Cunningham: It is all right, Christine. Your forward thinking is showing through already. Even Ron Kanter is smiling at you; it is fine.

Ms. Hart: I thought that was wrong.

Mr. Chairman: Mrs. Cunningham, you had your nine minutes.

Ms. Hart: What is proposed currently is the 5,000-square-foot exemption. We have heard delegations that want either 7,500 or up to 10,000 square feet as an exemption for drugstores. Yet if you go into the drugstores, even from 2,500 feet up, they are selling products that compete with your business. Pampers, surely, can be bought in your business, and you see those in every drugstore, and there are other products that are not necessarily food products and not necessarily drug or drug-related products. Do you have any difficulty with drugstores having an exemption to be open on Sunday?

Mr. Winstanley: Given the initial representation in the bill, it called for, I believe, 5,000 square feet. The type of retail statement you can make in 5,000 square feet is not going to upset us. The number of units that you can handle in there is not that sufficient that it is going to bother you. That is tempered with the understanding that people do require prescription services on Sunday. I appreciate that.

Ms. Hart: When does your comfort level become a little uncomfortable?

Mr. Winstanley: Probably at about 5,001.

Mr. Ballinger: Did you hear that, Mrs. Cunningham?

Mrs. Cunningham: He is the only person who has said it.

Ms. Hart: I would like to explore with you also the tourist exemption. Currently, there is a tourist exemption. In the proposal, the exemption is not limited to tourism but is an exemption that must be made by bylaw in the municipality. I know you understand that.

There are areas in Ontario, and I take, for example, the Byward Fruits Market in Ottawa. You may be familiar with it. It is right downtown, central Ottawa. It exists under the tourist exemption, but most of the witnesses who came and talked to us in Ottawa said the locals like to shop there. It is for groceries, fruit and vegetables, flowers and that sort of thing. Do you have any difficulty with that kind of exemption existing?

Mr. Winstanley: Yes, I clearly do.

Ms. Hart: Can you expand on that a little for me?

Mr. Winstanley: Those situations have the ability to develop as the fruit market developed, and now we have 35 Byward markets across the province, all with an exemption because you have given them an exemption in Ottawa. They, therefore, get an exemption across the province and are selling exactly

the same product on Sunday. So yes, I do.

Ms. Hart: The reason I ask you that question is that it comes back to uniformity and equality. Are you telling us that you will not express an opinion, but you would like everything other than drugstores and a few exemptions, maybe the 2,500-square-foot convenience stores, either totally open or totally closed?

Mr. Winstanley: I suspect that is probably the only workable solution.

Ms. Hart: That does not take into account tourism. How would you help us with that?

Mr. Winstanley: In the tourist area, everything would be totally open.

Ms. Hart: The Byward market is a tourist area. Everybody agreed to that. It also services the locals.

Mr. Winstanley: Not that specific piece of ground that market sits on, but more likely whatever the regional area is.

Ms. Hart: So all of Ottawa?

Mr. Winstanley: Whatever. If Ottawa is a tourist area, then that is what you call it.

Ms. Hart: This is the difficulty we have.

Mr. Winstanley: Yes, it is.

Ms. Hart: Ottawa is a big tourist attraction for Canadians. It is our capital city. Do you say that everything in Ottawa is a tourist area or do you confine it? Surely the local municipality has to be the one that knows best.

Mr. Winstanley: That could be. All I am saying is that you could have a supermarket operator right across the road that is going to be dramatically affected, if not, over a period of time, closed by that kind of availability.

Ms. Hart: In fact, now that you mention it, when I was in Ottawa, I believe it was Miracle Food Mart that was open not too far from the Byward market on a Sunday. I do not know under what exemption, but it must have been an exemption. Do you know anything about that?

Mr. Winstanley: No, because there are no Miracle Food Marts in Ottawa.

Ms. Hart: Then I was obviously wrong.

Mr. Chairman: You walked too far outside the city.

Ms. Hart: Mr. Chiarelli wanted to share my time.

Mr. Chairman: Two minutes.

Mr. Chiarelli: I would like, first of all, to go back to the select committee on retail store hours, which dealt with a number of issues, and it decided to defer defining the tourism exemption. I call that really a three-party copout in a minority situation. They had difficulty with it, so they did not deal with it.

Mrs. Cunningham: Now we have a one-party copout in a majority situation.

Mr. Cureatz: For a guy who was never here in minority government—

Mr. Chairman: Try to control yourselves.

Mr. Chiarelli: When I look at your brief here, like many of the other briefs that have come before us, it deals with a number of specifics in terms of fines, the square footage, etc., but to my disappointment, almost all of them refuse or do not address their minds to a specific definition of "tourism."

I note here that you are talking about municipal powers, inequality and so forth. As you aware there are at the present time in Ontario municipalities such as Sault Ste. Marie and Gananoque which are open under the tourism exemption.

I certainly would like to receive from you before these deliberations are over what you consider an appropriate definition of "tourism." I heard people who sit on this committee suggest they will have a definition for us. We are spending \$100,000 on this committee, I hope not to sit down and say, "Let another committee define 'tourism' at another time." We have to deal with the issue. We have to deal with it now. I believe the select committee dumped it on our laps because it was a minority government. We are dealing with it up front.

Mr. Chairman: We are running out of time.

Mr. Chiarelli: I would like to know whether or not you perhaps could help us with a definition of "tourism" in the next week or so, so that we can take some instructive advice from that.

Mr. Chairman: We will have to ask for a yes or no to that, I am afraid.

Mr. Winstanley: Just two sentences, if I may, in response. My problem is the pain we suffer with the current tourist area exemptions. For example, in Mississauga a supermarket two doors down from us has a tourist exemption. That is the pain, stores going down one side of a street and a block over. That is the pain that we have experienced for the last number of years. Yes, it is difficult. It sure is difficult to say how to do that in an equitable, fair way other than taking the situation and saying, "All right, it's a tourist area. Then everybody is open," or "It's not a tourist area. Everybody is closed."

1140

Mr. Chairman: Thank you. We appreciate your coming forward with your information and placing it before the committee.

The next delegation is Tourism Ontario Inc., Roly Michener, president

and chief executive officer, and Bill Biggs, chairman, development and promotion committee. Perhaps you two gentlemen would be kind enough to come forward and have a seat. You have 30 minutes. That is totally your time. We are here to listen to you people. If there is time left over, I will divide it equally among the three caucuses for questions, statements or whatever. Perhaps before beginning, whoever the main presenter is would be good enough to identify the other person and himself. The clock is now running.

TOURISM ONTARIO INC.

Mr. Michener: I am Roly Michener, and to my right is Bill Biggs. We would like to move right into the executive summary in our brief, if we can, and review that with you.

A lot of the discussion, of course, that has taken place about the Retail Business Holidays Act has to do with tourism, so we thought it would be well to clarify our position as a major organization involved with our industry in Ontario. As you may know, tourism in this province is one of the top three sectoral industries in terms of its size and its contribution to the provincial economy. Last year, this industry generated direct tourism revenues of \$9.3 billion, which created \$12.2 billion in income, or six per cent of the gross provincial product. Our industry produced \$2.9 billion in valuable foreign exchange earnings, which is second only to the auto and auto parts industries in this province. We contributed an estimated \$1.7 billion to Ontario's consolidated tax revenues, including an estimated \$400 million in retail sales taxes. That included an enrichment of municipal tax coffers by an estimated \$350 million.

We are Ontario's largest employer. We accounted for 10 per cent of total employment in the province on a full-time, direct, indirect and induced basis. For every 51 jobs that our industry creates, it generates \$1 million in tourism expenditures.

Retail shopping is a predominant motivator for 22 per cent of Ontario travellers to a main destination in the province and represents 25 per cent of the value of all Ontarians' tourism expenditures. Nonresident visitors to our province participate in a broad range of activities, with shopping, at 40 per cent, being second only to dining out, followed closely by sightseeing and touring as their principal activities. Tourism-related touring, sightseeing and retail shopping take place primarily on weekends.

The Ontario government, through the Ministry of Tourism and Recreation, invests a substantial portion of its multi-million dollar annual tourism marketing budget in the active and aggressive promotion of retail shopping and touring in Ontario. Nonresident visitors are encouraged to shop and to stay in Ontario through a very productive provincial sales tax refund for visitors to Ontario program which was instituted in 1977.

Our largest market by far for nonresident visitors to Ontario is the United States, representing 25.4 million person-visits to the province last year alone, with the bordering states of Michigan, Ohio, New York and Pennsylvania accounting for the vast majority of these visitors. Conversely, all of these states aggressively promote their tourism and hospitality products and services here. These states are all nonblue law states with Sunday shopping acting as a magnet to lure Ontarians by the thousands across the border on weekends to purchase all manner of retail merchandise.

Both the public and private sectors in Ontario tourism have made

enormous investments in the planning, development and promotion of a broad and diverse range of tourism and hospitality products, services and experiences to service ever-changing contemporary consumer tastes and demands. A good number of Ontario's tourism and hospitality enterprises are fully integrated retail business establishments which cater to their patrons' requirements by providing various retail services in addition to food service, lodging, entertainment, recreation, auto and boat fueling, parking and storage and servicing facilities seven days a week.

Said retail services include stores, shops and boutiques that supply all manner of sundries, groceries and outdoor provisions, clothing and travel services, vehicle and boat rentals, specialty gift items, antiques, crafts and souvenirs. The provision of these retail services on Sundays and holidays represents upwards of 20 per cent of gross weekly sales for numerous tourism and hospitality enterprises, most of which, of course, are taxed by the province.

All of the aforementioned products and services must be exempted from any form of government legislation to restrict retail business activity any day of the week, Sundays and holidays included. To do otherwise would be grossly discriminatory and will seriously damage the viability and the social and economic benefits which are generated by Ontario's vital tourism and hospitality industry.

Plant renewal in our industry and the development of new, innovative and expanded tourism products, services and experiences require long lead times to research, plan, finance, develop and construct. At the outset, most of them are high-risk ventures.

The omnipotent, arbitrary and discriminatory powers granted municipalities under Bill 113 to restrict or close retail business establishments of any kind on Sundays and holidays have deterred, and will deter, investment in said products, services and experiences at the expense of numerous full- and part-time jobs, economic growth and diversification and substantial tax revenues, which are invested in a better standard of life, services for and care of our citizens. We cannot believe that any government would purposely want to impose such restrictions on our industry, most particularly on the retail business services that we must provide our many patrons seven days a week or risk losing their patronage to other jurisdictions.

The Ontario government and municipal governments across the province are large employers of workers, both directly and indirectly, who must work on Sundays and holidays in retail businesses and retail business establishments that compete directly with privately owned retail businesses and retail business establishments. Everything from gift shops in hospitals to numerous large and small attractions, such as the Metro Zoo, Ontario Place, Ontario Science Centre, Black Creek Pioneer Village, Upper Canada Village, the Niagara Parks Commission, Science North, Old Fort William, provincial parks, conservation areas and municipally owned stadiums offer various forms of retail business services, from concession stands and camping supplies to specialty boutiques and retail stores. The crown—i.e., the province, the government of Ontario—is not bound by any provisions in Bill 113 with respect to crown-owned retail business establishments on Sundays or statutory holidays and can open them whenever it wishes. Municipalities can easily exempt their own retail business establishments under Bill 113. Surely there is no place for such blatant hypocrisy and unfair competition in a province, such as ours, that prides itself on equality, rights and freedoms for all.

Unfair and inequitable legislated restrictions are the worst form of economic blackmail in a free market economy. The Retail Business Holidays Act and Bill 113, An Act to amend the Retail Business Holidays Act, are openly discriminatory against various types, sizes and locations of retail businesses and retail business establishments and should be repealed. In a market-driven economy such as ours, consumers should be granted the freedom of choice to decide which retail businesses they wish to patronize on any day of the week and at any time of the year. The free market should be the final arbiter as to whether retail businesses and retail business establishments open for business on Sundays and holidays while respecting all existing provincial employment standards and labour legislation.

1150

Governments at every level are constantly creating costly subsidized programs to train and employ our youth, to retrain and locate suitable employment for displaced workers and to provide entry-level employment opportunities for numerous inexperienced and unskilled persons. Most, if not all, of these persons are available to work, want to work and have a right to work wherever and whenever there is an opportunity to do so. Many of these people and others are, or would be, happy to work in a retail business or retail business establishment on Sundays and holidays for personal business experience or economic reasons.

The Ontario hospitality industry must—and we emphasize this—with some seasonal business exceptions, provide uninterrupted service to our many patrons seven days a week, 365 days a year. Our employees willingly accept this fact as a precondition of employment in an industry which is totally dependent on good service, goodwill and professional hospitality. Employees in our industry are treated with dignity and respect by employers whose businesses are so dependent on staff attitude.

The vast majority of workers in Ontario, including all retail business establishment employees, are protected under the Employment Standards Act. It is very costly for employers to hire and train staff in our industry and in most others, and it is in their best economic interest to operate well within existing labour laws.

Any employee can be asked to work at any time by employers beyond normal working hours, and many are anxious and willing to do so. However, no employee can be discriminated against for not accepting work outside of normal working hours. Thus, we believe there is no need to establish any new law to protect worker interest, particularly one such as Bill 114, which is biased and discriminatory in favour of one class of worker.

Many myths are being perpetrated by those who are opposed to unrestricted retail business activity in Ontario throughout the week. Most, if not all, of these unsubstantiated allegations are debunked and refuted in a comprehensive study entitled *Blue Laws: The History, Economics and Politics of Sunday-Closing Laws* in which 10 blue law states were compared with 10 nonblue law states in the United States. I am sure most of you are familiar with that. Sections of that particular study were circulated by the Solicitor General at the time Bill 113 was released.

Tourism Ontario recommends that Bill 113 be suspended indefinitely pending the commissioning and release of a similar study by the Solicitor General of Ontario in which the economic value and social impacts of Sunday and holiday retail business activity in British Columbia, Alberta and

Saskatchewan are compared with those in Ontario, and in which the demand for, value of, and extent to which Sunday and holiday retail shopping contributes to tourism to Ontario is quantified and qualified. The economic and social value of unrestricted retail business activity on Sundays and holidays in Sweden, a country very similar to Canada in many ways, I believe, has been studied by this committee.

I would now like to turn it over to Bill Biggs for some personal comments and observations. Bill operates a fully integrated retail business establishment and would like to bring some of his experience to bear in our discussions this morning.

Mr. Biggs: Thank you for the opportunity to appear before your committee. I am chairman of Tourism Ontario's Development and Promotion Committee, and what I have to say is aimed at the development part of that committee.

For proper development planning, it is very necessary for any astute business person to be able to know where the economy is going and to be able to predict his own fortunes down the road. The proposed legislation has eliminated that potential, the potential of any businessman to properly plan the direction of his own business.

To give it a focus, I would like to tell you about my own operation. I started a business 32 years ago on Trans-Canada Highway 69. I am a merchant. I am a merchant in the tourist business. It is not that some of my customers are tourists; all of my customers are tourists, totally. I am 45 miles from Sudbury. I am 57 miles from Parry Sound. People who come to our operation have to travel to get there. They are vacationing people. I started with one employee and myself. We now have 70 employees. Last year, I collected for Ontario \$150,000 in retail sales tax, which I think is significant.

Mrs. Cunningham: A little more after the budget, I assume.

Mr. Biggs: Yes, a little more. You are right.

Mr. Ballinger: You never miss an opportunity to stick it in—

Mr. Chairman: Just ignore the interjections. They are out of order.

Mr. Biggs: Twenty per cent of our business is done on Sundays. We have as part of our operation now a 100-seat restaurant and a gift shop, which in total is 8,000 square feet. I have a motel and I have a service station; free-standing buildings on the same property. It is a tourist complex on the Trans-Canada Highway, servicing the travelling public.

I have a bit of a problem in looking at the proposed legislation in trying to apply it to my own business. On any given Sunday, I may have an employee move from one part of the business to another to take up the slack during a busy period. Someone from the retail store may end up working in the restaurant for a couple of hours. How you are going to sort that kind of thing out, I am not sure, but it does pose complications to me. How am I going to operate? Where am I going to go?

An interesting aside, and Roly did mention it: As well as operating at French River, I have two other stores which I operate under contract to Science North in Sudbury. It is interesting that these stores are of no concern as far as Sunday closing goes because, as a crown agency, I will be

allowed to operate those stores on Sunday. My own operation which I built myself is under question. I have a bit of a problem with that.

I have expanded this business, as I have tried to point out, many times over the years, from one employee to 70. We are providing employment to students. We have no problem with people wanting to work on Sunday. They understand. In fact, students, and some 80 per cent of our employees during the summer are students, want to work. They want to earn as much money as they possibly can to continue their education. That is important. That is important to all aspects of tourism in Ontario. We are supporting a lot of people in their educational endeavours. We feel you are going to limit, with this proposed legislation, the ability of all the businesses, particularly in northern Ontario, which have been hung out to dry.

I do not know where I am going to be five years from now, and nobody on this committee can tell me. I have been hung out to dry. I have stopped planning until we get something I can hang my hat on to plan for development in the future. That is what has happened.

I think it is a sad commentary when a business we have taken and expanded, and we are constantly in planning and development stages, has come to a halt because of this.

We are all small-business people in northern Ontario. Many of the businesses such as ours in northern Ontario are in unorganized territory. We do not have a municipality. I am not in a municipal area. I am in unorganized territory. I really cannot interpret what it says, but I think what it says is that I probably can stay open unless somebody decided I should close, at which point I would have to get the cabinet to intervene. I think that is what it says. Is the cabinet prepared to make a decision for every business in northern Ontario which is in unorganized territory?

I have said enough. I will leave it at that.

Mr. Chairman: I have Mrs. Cunningham first, Mr. Hampton and Mr. Ballinger.

Mrs. Cunningham: Thank you, Mr. Michener and Mr. Biggs. The emotion you displayed in your presentation just now, Mr. Biggs, is shared by many of your colleagues across this province, and although we do not always have them appearing before us, they have appeared in our offices. I have heard from five or six of your colleagues across Ontario who have chosen to come to London and tell me their frustration. So today it was with interest and anticipation that I looked forward to the presentation from your group because we have not heard from your group, except on one occasion, in our deliberations in the past eight weeks. I am happy you are here.

I am very confused and I do not know, quite frankly, what to do about where we are sitting either. I am Dianne Cunningham from London and I was elected in the by-election on March 31 in London, Ontario. The largest singular issue in that campaign was Sunday shopping. Although the people in that municipality are very much against Sunday shopping, they really shared your concerns. Those that were in the outlying areas and open now for tourist regions in the whole southwest region of Ontario wondered just how this bill affected you; so I share your concern.

I really would like you to respond in some way to my concern about where we are going with tourism because right now it is nowhere. It is not

recognized as being important at all in these bills. In fact, it is quite a shock that it has been left out. My idea has been to ask everyone if he would help us with a definition. I am not sure I am on the right track, but it was better than nothing, better than ignoring it totally. I have asked that.

The municipalities of Ontario want to help us and with three exceptions, everyone who has been before the committee is willing to help us. We are looking for some delay here so that we can look at that concern. I wonder if you could give me some advice on how I am going to persuade this overwhelming Liberal majority not to push this legislation through. Where do we go next? I know you have spoken to it, but could you say it again?

Mr. Michener: Basically, what we are saying is that it is a market-driven economy. The citizens, the consumers in this province, and the people who visit this province should basically determine what types of retail business establishments they would like to patronize at any time of the week. Otherwise, government should remove itself from endeavouring to protect some groups at the expense of others, etc. Let the marketplace determine what will be open and what will not be open.

Failing that, if the reality is that we have to deal with this bill and this bill or the act itself will not be repealed, our interests as an industry must be protected. They have been protected to a certain extent under the existing act. That has all been removed in Bill 113, quite consciously and purposely, although I think now the legislators are taking a look at what we have to say; hopefully, that position will be reconsidered. Do we want to shut this province down on Sundays? Do we want to deter a significant portion of our tourism industry? That is really the underlying point.

Mrs. Cunningham: I can assure you that the municipalities have been left with that decision right now.

Mr. Chairman: Four minutes has expired.

Mrs. Cunningham: You may have a chance later in the questioning to refer to that particular concern of yours, but right now, that option is not negotiable according to the Solicitor General and the Premier. If you have something to say about it, you had better fit it into the answers of the next question.

Mr. Chairman: Mr. Hampton, four minutes.

Interjections.

Mr. Hampton: I hope my time is not running.

Mr. Chairman: Order. Could Mr. Hampton—

Mr. Cureatz: He instigated this. If you cannot control the Liberal member for Durham-York (Mr. Ballinger)—

Mr. Chairman: You gentlemen are interfering with Mr. Hampton's four minutes, and it is a matter of fairness that he should get four minutes. Go ahead, Mr. Hampton.

Mr. Hampton: I am interested in a couple of portions of your brief, which I wish I had an hour to question you on, because you deal with a lot of different things. I am from a tourist community, Fort Frances. In the summer,

we become one of the largest entry points from the United States into Canada. It is not unusual to see Americans lined up for three or four miles to get across the bridge either way, and the population doubles.

There is no great push for Sunday shopping in my community. A number of people in my community go across the river to International Falls, where they have Sunday shopping, to buy gas because it costs less than half the price of our gas, an issue which I take up with the Treasurer (Mr. R. F. Nixon) about once a month in the House. Most merchants in my community say: "Oh, yeah, we might lose some sales. Somebody might go over and buy a knick-knack or something, but it's not a big deal with us. We would prefer to stay closed on Sunday." In fact, that is what most retailers in my community say to me: "We would prefer to stay closed." We do have some shops which offer the kinds of artefacts—local art, Indian art, photographs, etc.—which tourists buy and they buy them in the thousands. There is no doubt about that.

We heard earlier the tourism association in Sault Ste. Marie say, "Stay open," but the organization that represents the retailers says, "No, no, we don't want to work on Sundays and we don't want our shops open on Sundays, but if you allow for some we're all going to have to stay open." How do you respond to that, given your brief? I have no problem that there should be a tourist exemption and I am beginning to develop some ideas as to what it should apply to and what it should not apply to. But I do not see the need, based on your brief or the things I have heard from other groups, that we have to have wide-open Sunday shopping. Can you respond to that?

Mr. Biggs: I have no quarrel with a merchant who wants to close on Sunday. How could I? It is his choice. If he does not feel he needs the business or if the business he might put through his operation on a Sunday is not important to him, then by all means he should close. It is probably a prudent business decision.

I have figures here from my own operation. In the month of November, 45 per cent of my business is Sundays. It drops to 21 per cent in June and everywhere in between, averaging 20 per cent. I cannot live without it. I pointed out deliberately that I am 45 miles from Sudbury and 57 miles from Parry Sound. People are not going to wait in my parking lot until Monday morning.

Mr. Hampton: If I can just slow you down for a moment, I think most of your operation as it is is protected by and provided for under the existing legislation, under the existing Retail Business Holidays Act. I have literally thousands of tourist camps in my constituency, and gas stations and fly-in tourist camps, everything. To my view, they are provided for under the existing legislation.

Mr. Biggs: Under the existing legislation, yes, absolutely.

Mr. Hampton: So you would prefer the existing legislation. You say a lot of things in here that would lead me to infer that, "Well, we should go all the way to wide-open Sunday shopping," yet if I hear what you are saying now, you would prefer the existing legislation to the mishmash we seem to be getting in Bill 113.

Mr. Michener: I do not know if I would characterize it in those terms. I think that under Bill 113 what we would like to see, if we must have Bill 113, is a measure of protection for tourism interests and tourism values which certainly is not there now.

Mr. Ballinger: Welcome. I am always amazed that whenever we have a tourist group before us, the Conservatives in their wisdom fail to ask, "Would you help and participate in a definition of tourism?" Interestingly enough, your definition of tourism is very close to the presentation by Motels Ontario which we received, I believe, in Orillia, Ont., which happens to be a definition which I as a businessman believe to be absolutely true in Ontario in 1988.

I guess when I compare the points being made in here about the local option versus tourism or the tourist exemption, I believe what our government has done is allow for that flexibility in those areas which some people want to classify as areas where no tourism takes place. But when you look at your definition of tourism, tourism takes place everywhere in Ontario under all kinds of examples.

Mr. Michener: Correct.

Mr. Ballinger: I am going to use Mr. Biggs's comment about this proposed legislation, that you believe this proposed amendment hangs you out to dry. I wonder if you could just qualify it for us, please, because I am interested in that comment. If you really believe that, maybe there are some suggestions we could take a look at from a more objective point of view to try to cover your area, which is definitely an area of tourism seven days a week, 365 days a year.

Mr. Biggs: Obviously, I believe it or I would not have said it. When I say I have been hung out to dry, I cannot plan any major expansion of my business unless I can project my income and revenues for a five-year period. As a businessman, you understand that.

Mr. Ballinger: Yes.

Mr. Biggs: It is absolutely necessary that I know and can project five years down the road whether I will be open on Sundays when such a big percentage of my business is on Sundays. Any decisions which are made which will affect that part of my operation will have a major effect on my development plans.

Mr. Ballinger: Okay. Let me stop you there because I want to develop this a bit so I understand your concerns. In the brief, there is a suggestion that motels, hotels, restaurants, fast-food takeouts, etc. be excluded—I was going to say "exempted"—because there is a concern, obviously, from your organization, that municipalities, including the situation you are in, be asked within that five-year period to close. In your brief you ask that it be excluded. Would that alleviate the concerns that relate to you, if that became part of the discussion we do as a committee, to protect those areas such as motels, hotels, restaurants, fast-food takeouts, etc? Would that help?

Mr. Michener: The question is how do you define that?

Mr. Ballinger: I think we can define motel, hotel, restaurant and fast-food takeout very simply.

Mr. Biggs: All right. Let's identify them. We have to serve the travelling public. People are sitting around here saying, "What's tourism?" Everybody has been a tourist. You know what a tourist is; you know what you require when you go out as a tourist. It is not a great big mythical thing; it is not that difficult to define. I would love to sit down and help you define

it. Would you like—

Mr. Ballinger: I like your definition. I think it is great. I think it says the way it is.

Mr. Biggs: To answer your question, if I may, the way the legislation is proposed, I do not know who is going to decide or when it is going to be decided if I am going to be able to operate my business on Sundays five years from now. If you can find something in there that will give me some comfort, I would like to hear about it.

Mr. Chairman: Thank you very much, Mr. Biggs and Mr. Michener. Unfortunately, time moves on.

Mr. Ballinger: Can I just finish my last question, because I am interested— Thank you very much, anyway.

Mr. Chairman: We appreciate your coming forward and sharing the information with us—it is certainly helpful for the committee to hear that—and taking time out of your busy schedule to do that.

The committee recessed at 12:15 p.m.

CA 20N
XC 14
-578

J-30b

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT

Monday, September 19, 1988

Afternoon Sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Philip, Ed (Etobicoke-Rexdale NDP)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

Ballinger, William G. (Durham-York L) for Ms. Poole

Collins, Shirley (Wentworth East L) for Mr. Keyes

Cunningham, Dianne E. (London North PC) for Mr. Sterling

Clerk: Deller, Deborah

Staff:

Swift, Susan, Research Officer, Legislative Research Service

Witnesses:

From the United Food and Commercial Workers International Union:
Reno, Bill, President, Ontario Provincial Council

From the Canadian Jewish Congress:
Zaionz, Charles, Chairman, Ontario Region
Prutschi, Manuel, National Director, Community Relations

From the Ontario Public Service Employees Union:
Usher, Sean, Co-ordinator, Research, Education and Campaigns
Onyschuk, Jim, Research Education Officer

From Markborough Properties Ltd.:
Schott, George, Senior Vice-President, Shopping Centre Management

From William Ashley China Ltd.:
Stark, Brian C., Treasurer

AFTERNOON SITTING

The committee resumed at 2:04 p.m in room 151.

Mr. Chairman: The first delegation on our agenda this afternoon is Bill Reno, who is here from the United Food and Commercial Workers International Union. Would you like to come forward? Mr. Reno is president of the Ontario provincial council. Mr. Reno, welcome. Would you care to have a seat. You have 30 minutes. It is your time. We are here to listen to you. You choose to present your brief in any way you wish. You can use all or any part of the 30 minutes. If there is time left over, however, I will divide it equally, or attempt to, among the various members of the different parties on this committee.

If you would like to proceed, we would be happy to hear from you.

UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION

Mr. Reno: Thank you, Mr. Chairman. I will not take 30 minutes. I appreciate, because I have been following it myself, that you have been everywhere and heard everything on this subject. I really do not think there is any real point in repeating a lot of what has been said.

As you noted, I am the president of the Ontario provincial council of the United Food and Commercial Workers. A majority of our 70,000 members in Ontario do work in the retail food sector, but in the retail drug sector as well. However, we represent a lot of people who work in the food processing industries and other related industries as well. We have members in every part of the province, and I know you have heard from quite a few of them as you have gone around.

There are two pieces of legislation that you are talking about. I believe you have heard enough about Bill 113 and I can only reiterate what you have heard from our members in other parts of the province and from other groups of like mind, that it is not a good thing for retail workers and is not a good thing for anyone.

I really am here today to address Bill 114. I want to tell you a little bit of a story about this. Back in January, actually it was last December, a group of people in the labour movement in Ontario—myself, the president of the Ontario Federation of Labour and others—were invited by the Minister of Labour (Mr. Sorbara) to come to the ministry and meet him and his officials to discuss the whole concept of how we can protect retail workers against unreasonable Sunday work, in the event that legislation such as is being proposed would go through.

I was impressed. The minister was there, the deputy minister was there, the associate deputy minister was there, several assistants were there and more people than are in this room were there. We had a good long discussion. Our message to them—and we really did work it through; it was not just a rhetorical exercise—was that there is no way you can protect retail workers from the ill effects of Sunday work and there is no way you can meaningfully give them the right to refuse to work on Sundays if their employer wants them to. We came to the conclusion that the only way you can protect workers in this position is to compensate them for having to work on Sunday.

In our sector, the retail sector, we are used to working on Saturdays. It is a normal part of our lives; it is a condition of employment. People do not like it, of course, but they know that is what they are getting into when they get into that line of work. Our members, and others who work in the retail sector, already routinely give up half of their weekends. It is quite a serious thing for them to be faced with the prospect of having to work on Sunday, and many of them already do, because we have members who work in areas which have tourist designations, and they are quite used to it.

I can tell you that one of the major industrial relations irritants in the retail sector, where there is a union, is over who has to work on Sunday. It is not easy to find volunteers, unless you have provisions in your collective agreement that provide serious premium pay.

We told the minister and all of his deputies and assistants that it was also unfair to single out retail workers, because anyone who has to work on Sunday is going to suffer from the same ill effects. We suggested that any legislation designed to protect workers should not apply just to retail workers, but to all workers, and the only way to protect them, as I said, is to compensate them. We suggested premium pay, along the lines of time and a half.

When the legislation was introduced, I was quite angered because here we had been invited to give our input. They were presented with the views of people who are in a position to know what affected workers feel and what the realities of the workplace are. They should have put some of these busts out in the hall in the places where these people were, because not one single thing that we discussed, not one recommendation, not even the slightest, was reflected in the legislation that was proposed in Bill 114.

I have to tell you that this is a useless piece of legislation. I would suggest that you do not even bother. All you are going to do with Bill 114 is set up another cumbersome, unworkable procedure that is just another in a preposterously long series of pieces of legislation that give workers rights on paper, but do not provide for adequate or meaningful enforcement procedures.

Consider what someone has to do in order to enforce his so-called rights under this legislation. Someone who is assigned by his employer or store manager to work on Sunday, but who does not want to, for one reason or another, first of all, has to defy his boss. You can put any words on it you want, but these are the realities of the workplace. You have to defy him and say, "I do not want to work on Sunday," this Sunday, next Sunday, or whatever the case may be. I think it is unreasonable.

1410

The person doing this, invoking the law, is more than likely female, is more than likely a part-time worker and most likely works at or near the minimum wage and most likely does not have a union because, apart from the retail food industry, the retail industry in general is not unionized.

Here you have someone who is among the most vulnerable of all workers in our society and you tell her: "Don't worry. You've got the right. You just go right up to your boss and say 'No,'" and hope that six months or so from now some government referee will say: "Yes, Betty, you were right. He shouldn't have assigned you to work on Sunday."

In the meantime, that manager has 1,001 different ways that he can take reprisals against you or anyone else whom he deems to be unco-operative. Even where there is a union, this goes on all the time. You can appreciate that the retail industry operates much longer hours than most other sectors. It is often 8:30 in the morning until 10:30 at night, and there are many places, particularly in the food sector, that are open 24 hours a day.

That leaves an awful lot of latitude for a manager to assign you hours or shifts that he may know are extremely inconvenient for you. We have had instances that we have dealt with of women who have had long-standing arrangements with their employer for particular shifts because it accommodates their child care needs or their spouse's working patterns, and they have had no problem with that. But if they do one thing wrong, all of a sudden that arrangement evaporates.

It is extremely easy for a manager to do a little something. It may be even simpler than that. It does not have to be so onerous. It can be that you have asked for a Saturday off because you want to go to your sister's wedding. "I'm really sorry, but I just can't spare you that Saturday," or, "We are getting some new workers in and we are going to put them on the evening shift. We want you there to train them for a couple of weeks."

There is also a multiplicity of different kinds of assignments in the retail sector. In food stores, for example, there are a lot of dirty jobs that you do not see as a shopper, because you do not go into the back of the store. There is a lot of heavy work and there is a lot of often unpleasant work. You just might find yourself assigned to a little bit more of this. I am not saying this is a very widespread phenomenon, but it is the reality. Particularly when someone does not have any recourse through a union or through some other, personal strength, it is just phoney to tell him he has a right.

I have worked in the labour movement for over 13 years now and I deal with the entire range of laws that are designed to protect workers. I know you have heard this before in your own work as individual MPPs and I want to tell you it is true. It is very difficult to get enforcement of any of the labour laws we now have. The health and safety laws, the Workers' Compensation Act, the Human Rights Code, the Employment Standards Act, the Labour Relations Act—all of these things are extremely difficult to enforce, especially if you do not have a union acting on your behalf. Remember, again, we are talking primarily about people who do not have this kind of support or protection behind them.

We are going to have, if this goes through, another example of something that cannot be enforced but reads well on paper and looks fine. "There is a very fair procedure. Anyone can make a complaint. The government will look into it. There will be a referee. They will try to work it out."

It will not work because no one in the position of vulnerability I have described is going to take the risk of incurring the displeasure of his manager simply in the hope that someone later, down the road, will support him. Even if he does, even if a referee finally says, "Okay, that was unreasonable," that is a decision about that particular situation alone. There is nothing to say the schedules cannot be rearranged or that some other factor comes into play later on, in which we have a whole new case all over again.

I really advise you to scrap this. It is pointless. You are going to have to hire more people to administer something that is not going to work. Second, it is discriminatory because it only applies to a certain sector of the working population.

We, however, as a union, should this law go ahead, are in a position to do something about it if any of our members want to. Should they be in a jurisdiction which allows Sunday retailing and they are assigned Sunday work and they want to refuse it, we can support them. I assure you we will. Not only will we support them, but we will ask them to refuse to work on Sundays where they are asked to because we feel that this law, if it goes through, has to be tested and shown to be inadequate.

As I said, we represent 45,000 retail workers in this province. We are very capable of orchestrating mass refusals to work and to force the Ministry of Labour to make the determination in this province of who has to work on Sunday. We will do this because it is necessary sometimes to demonstrate that the law is a sham, and this law is a sham.

I know I speak on behalf of the members in Ontario. I know you have heard from them already and I know that occasionally there have been some emotional presentations that have come right from the heart of people who face the realities of the workplace all the time and who do not want to work on Sunday, in most cases even if allowed premium pay, because many of our contracts do provide for that.

There was a situation, I think it was a couple of years ago, when everything was wide open around Christmastime, in which some of the major retail food chain stores were having difficulty getting people to work on Sunday even at double time because people do not want to work on Sunday for all the reasons you have heard. There does not seem to be any economic, social and, at this point in the game, political sense in pursuing this objective which was sprung on us as a surprise following the last election.

I can only conclude by reiterating that everything you have heard in opposition to Sunday shopping, Sunday retailing or transferring the decision on this to the municipalities is shared by many more people than you have heard from. I earnestly urge the government to back off and restore the situation to the way it was.

The act, as it exists, certainly needs some adjustments, particularly in the area of tourism exemptions, but essentially, it is a sound compromise among the interests of business, labour and consumers.

Mr. Chairman: There are approximately 11 minutes. That is three minutes and 40 seconds per caucus.

Mr. Cureatz: Thank you for your presentation. During our tours, it is interesting that we, as the Conservative Party, have become allied and have worked very well with our New Democratic Party colleagues in regard to opposition to this legislation.

Time and time again, I can only reiterate that there was a unique conglomeration of groups that we have had come before us who are against it—big industry, little industry, nonunion workers, large union representatives such as yourself and church leaders.

It is surprising the kind of animosity that has been brought forward by this legislation. Even I, who have been around for a while and have seen a lot, am surprised at the kind of reaction that this has brought forward. You have brought forward a couple of interesting aspects, which I like. I think one of the reasons for my success, certainly after the last election, was that I looked after my constituents. That is the number one priority we have as elected representatives. I think you did the same thing in terms of reflecting the concerns of the unionized workers you have.

1420

You have indicated to us a very practical problem, the practical problem that I and my constituency office have seen time and time again, dealing with government bureaucracy. Goodness knows, the Tories were in, I say to Shirley Collins, for 43-odd years and probably caused a heck of a lot of it, be it workers' compensation or now when we see rent review and all the turmoil that has been brought forward by that. Of course, that was brought in by—

Mr. Philip: You mean the rent review act you guys voted for?

Mr. Cureatz: That is right. I opened up with something complimentary to the New Democratic Party and you can not resist sticking the knife in. I can only remind them whom they supported in 1985, the minority government, but I will not bother to do that.

You have a very practical approach to the difficulties of Bill 114 and the resultant practicality of trying to enforce that legislation. I was very concerned with your indication. I want to stress and ask you again about the game plan you foresee, because I think the bill is going to pass. The Premier (Mr. Peterson) says it is going to pass and the Solicitor General (Mrs. Smith) says it is going to pass. You said, "If it passes." It is going to pass.

You are the first group that has actually come forward in terms of a game plan. I wanted to ask the tourist people earlier, the last presentation, whether they were ready to go running around and lobbying all the local municipalities to get their particular tourist area exempted. Is your game plan going to be to start advising, as you indicated, employees not to work on Sundays? What do you think the success of that advice will be? You indicated a lot of these people are part-time, female, near minimum wage, in many cases maybe not very well educated. What will be the success of your advising those employees not to work on Sunday and would you reiterate your long-term, long-range game plan if the legislation is passed?

Mr. Reno: I think the success of a strategy of advising people to refuse to work on Sunday has a high degree of likelihood. We do not have any doubt, because we have done our own internal surveys, that our members do not want to work on Sundays. If it comes to pass that they are asked to work on Sunday, we do not think there will be any difficulty in approaching them and saying: "Look, the union will back you 100 per cent. Here is the procedure and here are your rights. We will sit with you in the manager's office while you refuse to work, to ensure that there are no reprisals taken."

We have the ability to keep the records of all the schedules in the past and all the practices of this store, so if there is any deviation from them, we can charge that employer with using coercion and intimidation. In other words, we have the resources to be able to back these people. Given that, if they have confidence in us, and on this issue I am sure they will, then I predict we will be able to orchestrate these mass refusals I talked about.

Mr. Hampton: You gave us the scenario of the employee who was not protected by a union, what would happen if he did protest or did say, "I really don't want to work on Sunday." What is the more likely scenario? I agree with you that any employee in that position who is not protected by a union has to be very brave or very foolish to make a complaint or to say, "I am not going to work because I do not think this is reasonable." What is the more likely scenario for that kind of employee, especially if he has been around the business for a while and knows how the business operates in terms of getting a raise or a promotion?

Mr. Reno: They will not do it; they will not complain. That is the only reasonable thing to do. If a nonunion, minimum-wage, part-time female worker called me and said, "What are my rights?" I would tell her what her rights are, but I would say, "Tell me what your manager is like." I would say—and I am sorry to say the masculine pronoun is most appropriate, but there are very few females in management in retail, even though a majority of the workforce is female—"If he is a reasonable kind of guy, approach him, but do not take a position like 'I am going to try to enforce my rights; I am going to invoke the law,' because you are likely to trigger an adverse reaction."

The law is designed to be a success because nobody is going to complain. A year from now we will say: "Hey, we have had hardly any complaints. The ones we have had seem to be resolved. What is the big deal?" By instituting this kind of cumbersome procedure which demands defiance of your employer, you are not going to get the complaints. I predict in advance that the law will be a success as it is now written.

Mr. Chairman: Mr. Philip, you have a minute and a half.

Mr. Philip: One of the interesting stories I picked up in one of the newspapers was that Marks and Spencer, which I gather is not unionized by your union, is claiming that if this legislation is passed, it is going to mean a 100 full-time jobs laid off, because under present Ontario labour law, you can work an employee only so many hours. Therefore, it probably makes more sense to have part-time employees than full-time employees. Is it your feeling from your experience of seeing what has happened in other jurisdictions that this legislation will lead to more part-time work and less full-time work?

Mr. Reno: It probably would be difficult to distinguish the effects of something like this from what is happening as a general trend in the retail industry anyway. It is becoming increasingly more populated by part-time workers, even in the unionized sector, I am sorry to report. But there is sense to what Marks and Spencer has said. If you are going to find people who can work on Sunday, who are willing to work on Sunday, it only makes sense for you to try to attract people who can work throughout the rest of the week, people who know the policies, the prices, the stock and so on. If you cannot work your full-timers more than the 44 hours per week—it should be less than that—then what is likely to happen is they will just gradually break up these full-time jobs into part-time jobs and then distribute them throughout the week. Employers like to do this anyway in the retail sector.

Marks and Spencer is in a position to say so on the basis of its own policies, how it does its scheduling, its stores hours and everything else. I do not think it would have the same overall effect in the retail food industry. That would not make as much sense, but in the dry goods industry, which Marks and Spencer is in, I think what it is saying makes sense.

Mr. Chairman: Mr. Chiarelli, 3 minutes and 40 seconds.

Mr. Chiarelli: Thank you very much for coming before the committee. I appreciate the fact that your union has made submissions in, I think, pretty well every locale where the committee has been meeting. I think your experience, the experience of your union, in helping to manage human resources can be very instructive to us in helping us to come to a resolution of this problem.

Before we get into some details here, can you give me an idea of the size of your union, the number of members? Roughly, how many of them would be eligible to work on Sundays now?

Mr. Reno: There are approximately 70,000 in Ontario in our union.

Mr. Chiarelli: Internationally, how many members would you have?

Mr. Reno: About 1.3 million.

Mr. Chiarelli: How many would be eligible to work on Sundays now?

Mr. Reno: We represent a lot of workers in the brewing industry, where they have a continuous process. There are lots who work on Sundays, at high-premium rates, of course. In some cases in the food processing industry, particularly this time of year when the harvests are in, the plants are working 24 hours a day, 7 days a week, again at premium pay. There are, as I mentioned, workers in the retail industry who work in tourism areas who will sometimes work on Sunday. As a proportion, I could not tell you how many are eligible to work on Sunday.

Mr. Chiarelli: But there are significant numbers. Have you ever counselled any of them not to work on Sunday unless it is for premium pay? In other words, is that the equation we are looking at? "Work on Sundays if you can negotiate premium pay?" Is that the issue?

Mr. Reno: We negotiate premium pay for Sunday work, yes.

1430

Mr. Chiarelli: But have you ever counselled any of these workers not to work on Sundays because their employer expected them to work on Sundays, or is this a new policy you are implementing?

Mr. Reno: Oh, no. What I have said is that if this law goes through, we will counsel our members—

Mr. Chiarelli: But what about those who work on Sundays now? What had you been counselling them before Bill 113 was introduced?

Mr. Reno: They have no protection against Sunday work.

Mr. Chiarelli: But what are you counselling them?

Mr. Reno: We cannot counsel people to refuse to work, if their employer has assigned them work, in the absence of a law protecting them, so we do not. That would be irresponsible. I think this law, as proposed, is a bad law because it only addresses one sector of the working population, but if they were included in the law, then we would counsel them to exercise their rights to refuse to work on Sunday, yes.

Mr. Chiarelli: I have just one other very brief question. I understand that you indicated initially, and I think I am quoting you, that there is no way to protect workers against Sunday openings. On the other hand, you said that you made a number of recommendations to the Solicitor General, which the Solicitor General did not accept. What is the nature of the recommendations that you made that were not accepted, and would those recommendations nullify your comment that there is no way to protect workers against Sunday openings?

Mr. Reno: It was the Minister of Labour (Mr. Sorbara) we were speaking with, and as I said, we came to the conclusion that there was no way to protect them. The only way to protect them was to compensate them, and we suggested that they be paid time-and-a-half for all Sunday work.

Mr. Chiarelli: You made a number of recommendations, you indicated. What was the nature of the recommendations, other than to pay them more?

Mr. Reno: No, we did not make recommendations. What we did is we discussed the concept of how you can protect workers, and we came to the conclusion that you could not, except through premium pay.

Mr. Chiarelli: I see.

Mr. Chairman: Mr. Reno, thank you very much. We appreciate your coming forward and sharing your views with us. They are of interest to the committee.

Mr. Reno: Thank you.

Mr. Chairman: The next delegation is the Canadian Jewish Congress; Charles Zaionz is chairman of the Ontario region, and Manuel Prutschi is national director of community relations. Welcome, gentlemen. You might care to have a seat and identify yourselves for the purposes of Hansard.

You have 30 minutes. That is your time. We are here to listen to you. If you choose to use all of that time for your presentation, that is your prerogative. If there is time left over, I will attempt to distribute it equally among the three parties that are represented on this committee. We have your material in hand; so if you would like to proceed, please do.

CANADIAN JEWISH CONGRESS

Mr. Zaionz: Thank you, Mr. Chairman. I am Charles Zaionz, chairman of the Ontario region of the Canadian Jewish Congress.

Mr. Prutschi: I am Manuel Prutschi, national director of community relations, Canadian Jewish Congress.

Mr. Zaionz: The Canadian Jewish Congress, Ontario region, is a democratically representative organization of the province's 150,000-strong Jewish community.

Acting as the voice of Ontario Jewry, Canadian Jewish Congress has made numerous representations to government and intervened in legal proceedings on such matters as antidiscrimination laws, racial-restrictive covenants, religious education in the public schools, antihate laws, civil liberties and civil rights, education, religious rights, minority rights and domestic peace

and security. Such activities are an outgrowth of one of the principal aims of Canadian Jewish Congress, to ensure that the rights of the Jewish community are protected so that its members may function freely and fully as an integral part of Ontario society.

The observance by man of a weekly day of rest is one of Judaism's unique contributions to civilization. In Jewish life, Shabbat, the Sabbath, is the most special of days. It commences at dusk on Friday evening and ends after dark on Saturday night. The overall observance of the day involves worship, study and reflection, both at synagogue and at home, and interacting closely with family and friends. It is a day when observant Jews abstain from school, work and participation in the very worldly concerns of business or commercial transactions of any sort, including shopping. There are those, as well, who on the Sabbath do not avail themselves of motorized or mechanical transport.

The Canadian Jewish Congress believes that observance of a weekly pause day is of transcendent good to society as a whole. It does so because of Judaism's consecration of the Sabbath and because Jewish law and practice uphold the cause of labour and foster family togetherness.

The Canadian Jewish Congress notes that Sunday, rooted though it is in Christian practice, has come to be regarded by many Ontarians as the traditional weekly day of rest for reasons which are as much secular as religious. We have consistently held that if government is to legislate such tradition into practice, the broadest possible allowances must be made for those communities which observe another weekly pause day.

In this context, we made representations to the government in the mid-1970s prior to the enactment in 1976 of the present Retail Business Holidays Act. In 1987, we submitted a brief to the Legislature's select committee on retail store hours. We come before you today primarily to comment on Bill 113, which is proposed as an amendment to the Retail Business Holidays Act.

Our very specific concern is the protection of non-Sunday-observing minority faith communities from any negative repercussions inherent in the new legislation. Ontario's Retail Business Holidays Act already does show some concern for minority sensibilities by incorporating in subsection 3(4) a limited Sabbath exemption.

This exemption still leaves a substantial discriminatory residue. For one, it excludes larger retailers, in effect, declaring that some Sabbath-observant retailers are more equal than others. For another, it ignores those minority communities that observe a pause day other than Saturday.

The present government in its new legislative proposals regarding the carrying on of retail business on Sunday has shown itself to be very mindful of the inequalities in the present Retail Business Holidays Act. The government is to be commended for its genuine effort to arrive at a fully nondiscriminatory provision.

Section 5 of Bill 113 replaces the Sabbatarian exemption in the old Retail Business Holidays Act with a new Sunday exception, which protects all retail business owners who observe a religious pause day other than Sunday, no matter the size of the establishment, workforce or breadth of operations. Moreover, in a measure which likewise merits commendation, the government has made this provision unassailable by any other jurisdictions.

Unfortunately, Bill 113, in the process of ridding the old provision of its discriminatory aspect, introduces a new discriminatory component. In subsections 5(1) and 5(2), religion is clearly set out as the reason for the Sunday exception. Furthermore, the identification by religion of the affected retail proprietors is called for in legal documents, implicitly in the case of a sole proprietor and explicitly in the case of a partnership or of a corporation.

We encounter at least two secondary problems with this amendment. One, it strikes us as somewhat illogical that an act, ostensibly secular in purpose, introduces an exemption explicitly religious in nature. Two, we wonder how a corporation or partnership can have a religion, especially when Brian Dickson, Chief Justice of the Supreme Court of Canada, in the Supreme Court's judgement of December 18, 1986, on the constitutionality of the Retail Business Holidays Act, unequivocally stated, and I quote, "I have no hesitation in remarking that a business corporation cannot possess religious beliefs."

However, our primary objection to the amendment stems from what we see as the unnecessary introduction of religion into the equation and, more specifically, with a requirement for religious identification. To us, as a Jewish community, and we suspect to other minority faith communities as well, such a practice is an echo of other times and other societies where inequality and prejudice, rather than tolerance and equality, were the norm. To single out in law only members of minority faith communities is both unpalatable and discriminatory.

1440

Such a practice, we think, is not in consonance with the spirit of the Ontario Human Rights Code which, for example, at subsection 22(2) states as follows:

"The right...to equal treatment with respect to employment is infringed where a form of application for employment is used or a written or oral inquiry is made of an applicant that directly or indirectly classifies...by a prohibited ground of discrimination." Creed is, of course, one of those prohibited grounds.

The Ontario Human Rights Code in this section reflects what we hold to be a broadly accepted principle, that in the public realm, classification or identification by, among other things, religion is something that could have negative repercussions. Undoubtedly, it was mindfulness of this principle which led the framers of the Sabbatarian exemption in the original Retail Business Holidays Act to stay away from reliance on any religious criteria.

In our submission to the select committee on retail store hours, we praised the wisdom of the Retail Business Holidays Act in this regard, noting, "For government to inquire into matters pertaining to religious belief and practice would be inappropriate, offensive, an invasion of privacy and violative of freedom of religion."

It is Chief Justice Dickson in the Supreme Court of Ontario judgement on the Retail Business Holidays Act who most eloquently makes the case against such a practice. In the words of Justice Dickson:

"In my view, state-sponsored inquiries into any person's religion should be avoided wherever reasonably possible since they expose an individual's most

personal and private beliefs to public airing and testing in a judicial or quasi-judicial setting. The inquiry is all the worse when it is demanded only of members of a nonmajoritarian faith, who may have good reason for reluctance about so exposing and articulating their nonconformity."

With this in mind, it is our view that the government's laudable intention to formulate a totally nondiscriminatory Sabbatarian exemption can in fact be attained by simply dropping religion from the Sunday exception sections.

It is therefore recommended that in subsection 5(1), "by reason of the religion of the owner of the retail business" be deleted so that this subsection will read, "Despite any other provisions of this or any other act or the bylaws or regulations under this or any other act, a retail business may be carried on in a retail business establishment on a Sunday if the retail business is always closed to the public throughout another day of the week."

Furthermore, subsection 5(2) should be struck altogether.

The law, in effect, would compel every retail business that wants to open on Sunday to declare another day when it, in its entirety, would be consistently closed.

Consumers of minority faith communities are another group affected by Sunday-closing legislation. Admittedly, there is a qualitative difference between how retailers and consumers are affected. With retailers, it is a matter of livelihood; with consumers, it is a matter of convenience. Nevertheless, it must be realized that consumers who observe a pause day other than Sunday, particularly Sabbath observers, are placed at a significant disadvantage and consequently are penalized.

Saturday is the most popular family shopping day. For Sabbath observers, especially families with children, single parents or two working parents, the inability to shop on Saturdays, compounded by a virtually closed Sunday, presents unique difficulties.

Again, it is Chief Justice Dickson in the Supreme Court judgement already cited who clearly articulated the difficulties. Referring to the Retail Business Holidays Act, he wrote:

"I note that the act also imposes a burden on Saturday-observing consumers. For single-parent families or two-parent families with both spouses working from Monday to Friday, the weekend is a time to do the things one did not have time to do during the week. The act does not impair the ability of Sunday observers to go shopping or seek professional services on Saturdays, but it does circumscribe that of the Saturday observer on Sundays.

"I am prepared to assume...that the burden on Saturday-observing consumers is substantial and constitutes an abridgement of their religious freedom. I note that the burden may be particularly onerous on Jewish consumers who rely on retailers...to supply them with foodstuffs that conform to religious dietary laws."

Foodstuffs, much more so than any other product, at the very least are acquired on a weekly basis, so that the greater the obstacle to their acquisition, the more substantial the resultant inconvenience and the sense of grievance. The Sabbatarian exemption of the present act and the Sunday exception in the proposed amended act to a certain degree do facilitate the

acquisition of food products in general, and kosher foods in particular, where there are retailers who qualify for the pertinent exemptions. However, there are situations in areas with a large Jewish population where food retail establishments catering to the Jewish community, for one reason or another, would not fall even within the proposed Sunday exception.

One example of just such a situation occurs in the Bathurst Manor area of North York. A supermarket that stocks a substantial quantity of kosher foods, nonperishable as well as dairy and meat products, in deference to the area's Jewish community, which the store owner has attested to "represent at least 95 per cent of the store's business," has been closing on Saturdays and opening on Sundays. Despite its Saturday closure, the retailer was charged with violating the Retail Business Holidays Act because the size of his establishment and the number of employees exceeded the allowed maximum.

At the store owner's trial, the rabbis of the two major synagogues in the area testified that members of the Jewish community strongly felt themselves discriminated against, yet Bill 113 leaves a situation of this type unaddressed. The store is one in a chain of four. The other three, since they do not serve a Jewish clientele, open on Saturday and, we would assume, will continue to do so under the new law. The store in the Bathurst Manor area therefore would not be entitled to the proposed Sunday exception.

We draw to your attention a second example from Thornhill, another area with a large Jewish population. A supermarket, part of a public company, stocks a considerable selection of nonperishable kosher foods. It also has a kosher food section providing fresh meat, dairy, fish and freshly baked as well as refrigerated goods. This latter section has independent access from the outside and can be fully separated from the rest of the store by a floor-to-ceiling partition which totally encloses it. In effect, it constitutes a store within a store.

On Saturday, this kosher section is closed, while on Sunday it is this section that opens and the rest of the store remains closed. Under the present Retail Business Holidays Act, this sophisticated roping-off system is acceptable, but under the new Sunday exception it could not operate, nor would the entire store be entitled to open on Sunday, since it is one of a large chain.

Any Sunday-closing legislation, while ensuring that there is no discrimination against non-Sunday-observant retailers, should also provide a mechanism which mitigates the penalty suffered by Sabbath-observant consumers in such cases as the two we have illustrated. In our view, a component of the local option as advanced by the government in Bill 113, albeit in revised form, could give the legislation the added flexibility precisely required for dealing with these exceptional situations.

The proposed amendments, as they stand now in clause 1(1)(aa), empower the metropolitan or regional municipal government, where there is one, rather than the local municipality, to legislate bylaws regarding Sunday closing. Our concern is that the regional or metropolitan municipal government may not be as understanding of or as responsive to particular locally felt needs.

A case in point of insensitivity by a larger administrative level is provided by the York Region Board of Education's recent refusal to accommodate the Jewish community vis-à-vis Jewish holiday dates and the scheduling of events and meetings. The board has remained adamant despite protestations by the local trustee, representations by the town of Vaughan's race and

ethnocultural relations committee and by a resolution of Vaughan town council. It would be regrettable for a metropolitan or regional municipal council to ignore the advocacy of a local council regarding a specific situation meriting an exception to the Sunday-closing legislation.

1450

The government, in proposing a local option for the regulation of retail store hours on Sunday, as we understand it, intended that local attitudes and needs be reflected most faithfully. In our view, for the local option to be true to this intent, power to legislate bylaws regarding Sunday closing therefore should rest with the most local level of government, rather than with the regional or metropolitan one. It is at the local level that one can most expect exceptions for highly specific and unique microcosmic conditions to be adequately dealt with.

It is therefore recommended that clause 1(1)(aa) be amended so that "municipality" would mean plainly and simply the "local municipality."

Thus far our recommendations have addressed the needs of retailers and consumers. When envisioning the various Sunday exceptions for members of minority communities who observe a pause day other than Sunday, one should not forget the interests of employees. In our last submission to the select committee on retail store hours, we called for the protection of those workers who did not wish to work on Sunday, and in a nonspecific way we recommended an amendment to the Employment Standards Act as a possible remedy.

The government, in Bill 114, which proposes an amendment to the Employment Standards Act, has devised a very specific structure to protect employees. They can grieve Sunday work which is considered unreasonable. However, it has been suggested that this placing of the onus on employees is impractical, because in a retail setting employees invariably are in an unequal situation vis-à-vis their employers. There is the added concern that a mechanism based on grievance would not be conducive to good employer-employee relations. We therefore ask the government, in light of these concerns, to review the process it has developed to ensure that the employee remains protected.

That is, of course, respectfully submitted.

Mr. Chairman: Thank you very much. Are there any further comments with reference to the presentation? Otherwise, I will open it up to questions. We have about nine minutes left, so three minutes a caucus.

Mr. Philip: I can understand your concerns. Certainly, some have argued that the present bill may be challenged under the charter for the very reasons you have suggested. I am not going to ask you whether you agree with that, because I assume you have not obtained legal counsel on that.

I would ask you about your recommendation on page 6. As I understand your recommendation, what you are saying is that basically any store could open on Sunday provided it closed any other day of the week for whatever reason.

Mr. Zaionz: Consistently.

Mr. Philip: Consistently; for a reason which they would not want to disclose. Would that not automatically lead to wide-open Sunday? Retailers

have told us that Mondays and Wednesdays are terrible days and therefore financially it would make no sense whatsoever for them, if your suggestion were implemented, not to automatically say, "Fine, we're going to remain open on Saturdays and Sundays," which does not achieve your objective, "because they're busy business days, and we're going to close Monday and declare that the day of pause."

Mr. Zaionz: I do not know that anyone knows that Sunday is a great business day. That is conjecture at this point.

Mr. Philip: We do know from British Columbia that Sunday is a better business day than is Monday, if you open. I do not think that is under dispute. Other jurisdictions have shown that.

Mr. Zaionz: I think that is a question of checks and balances. There are certain considerations that retailers would have to give before declaring that they are for ever giving up staying open on a specific day for the right to be open on Sunday. They would certainly have to consider the rights of their employees as protected under Bill 114, whether it is in this form or some other proposed form.

That is all predicated on an assumption that there is a multitude out there prepared to buy on Sunday. Again, that is a question I really cannot deal with because I do not know that that multitude is out there. Certainly, from our standpoint, we think there are enough checks and balances that I do not foresee we are going to have what you call an open Sunday as a consequence of this.

Mr. Kanter: I would like to compliment the deputants. I think they have presented a thoughtful brief and have referred to the rights and concerns of employers, consumers and employees. I appreciate their mention of the efforts of this government to try to make the Sabbatarian exemption less discriminatory.

I guess we are working as politicians in the art of the possible. Some have claimed that the very existence of the bill in a sense is discriminatory, but we are certainly mindful, as you note in your brief, that very many people in Ontario observe Sunday, for religious or other reasons, and we are keeping a general provincial framework of protection for retailers on Sunday in the province.

The specific section I would like to ask you about, and Mr. Philip alluded to it, was whether the right to open on Sunday should be linked to some criteria, religious or otherwise, or should be pretty well unlimited, limited only by the marketplace. I guess our dilemma, if you will, is trying to balance the rights of the majority, as we perceive them, with not just the Jewish community but a number of other minority communities, some of which are quite in evidence, particularly in the Metro area, and some which of which are growing quite quickly.

I noticed in your presentation, on page 2, that you suggested the broadest possible allowance must be made for those communities which observe another weekly pause day. You yourself put a special emphasis on the view of a community which observes another weekly pause day, and I guess I am asking if on balance—this is not perhaps your first choice—you consider this bill an improvement over the previous bill.

Mr. Zaionz: I think it is certainly an honourable attempt by

government to deal with the issue. As our brief suggests, the criteria used, the reference to religion and the administration of that reference in a practical sense cause us anguish. We have been very explicit in that, that any bill which requires any segment of society to declare its religion in order to achieve exemption or status, as the case may be, is of concern to us.

Mr. Kanter: I understand that concern, yet it seems to me that in the operation of the bill, the use of the religious exemption would only come up in the case of complaint or police enforcement, something of that nature; that is, not all merchants might exercise this right and not all of those who exercised it would be required to state their religious preference. There are other cases, under the Human Rights Code and labour relations legislation, where on occasion people in Ontario do state their religious views, and this legislation seems to work in a satisfactory fashion.

1500

Mr. Chairman: I think, Mr. Kanter, that is rhetorical. We are going to move on. Your time has expired.

Mr. Ballinger: It is nice to hear him being rhetorical once in a while.

Mrs. Cunningham: Thank you for your presentation. You present us with a little bit of a dilemma, but that has not been unusual during the proceedings across the province this summer. In Manitoba, in an effort to meet the kinds of requests for Sabbatarian exemption that you have brought to our attention, that particular government has stated that if you wish to open on a Sunday then you must be closed on a Saturday. In fact, if you have more than one business, all of your businesses, all of your stores must be consistent in order to meet this exemption.

Then they have gone a step further. Some of these stores are large specifically to meet, let's face it, the kosher foods that you are talking about in your example. They have said that they must operate those stores with not more than four employees. Have you thought about that? Is that something you are aware of? Would that kind of suggestion meet your concerns?

Mr. Zaionz: I think we have addressed that. That is one of the faults we find with the current bill, because it discriminates in a sense against, for example, observant retailers who have a larger establishment. It discriminates, within the retail sector of those who would qualify for exemption under the current legislation, between the smaller retailer and the larger retailer. It discriminates on the basis of size, which we think is what the current Bill 113 is trying to address. I do not think that would be acceptable to us. I think that is one of the problems we see with the current legislation.

Mr. Prutschi, do you have anything to add? He is our expert on Manitoba.

Mrs. Cunningham: We are obviously trying to look at alternatives to address what you have raised today. That is why I raised that one.

Mr. Prutschi: Yes, it is a question really of trying to work out a fair balance between two positives. In a sense, what we have been saying is that perhaps if you really do require a retail establishment, no matter how small or large, no matter how broad its operations, whether it is one store or a very large thing, to be consistent, it cannot test the marketplace

beforehand. It has to commit itself from the very beginning to closing on a certain day and closing consistently throughout the length and breadth of all its operations. It cannot open some on Sundays to test the market and it cannot sort of make a decision and then see if it changes its mind. There has to be, to begin with, a declaration of what day it will close on and that it will do so consistently all along the board. That is it.

Mrs. Cunningham: We have not had time to really pursue this. We will try to do it later.

Mr. Chairman: I am afraid your time has expired.

Mr. Hampton has asked for additional time, and I am in the committee's hands. We require unanimous consent for that.

Mr. Philip: I think when you hear his reason, you will probably agree.

Mr. Chairman: Perhaps you would like to give your reason beforehand, and then I will ask for unanimous consent.

Mr. Hampton: I want to make sure we are on the same ground in terms of the Manitoba legislation, because it is my understanding that in Manitoba the primary restriction is four employees. Anybody can open on Sunday, but you are restricted to four employees. The Sabbatarian exemption, as I understand it, says that if you want to close on another day, then you can open on Sunday and are not limited to the four employees.

Mr. Chairman: I think the question has been asked.

Mr. Ballinger: That is sort of like double-dipping. First Mrs. Cunningham asks it and then you follow up.

Mr. Hampton: I am not trying to prove a point. I just think it is important that we understand what the model is there.

Mrs. Cunningham: I think we are all equally together looking for some kind of solution on this one.

Mr. Chairman: The question has been put. I think the question is, "Is that your understanding of the Manitoba legislation?"

Mr. Prutschi: The Retail Business Holidays Act as it stands now allows you to open a store on Sunday if you have been closed on Saturday, and one can add it to another day of the week if the employee size is seven or fewer and the size of the establishment is 5,000 square feet or less. You also have that to some degree in the Ontario legislation now. You are saying that the Manitoba one is not placing any limitation on the size.

Mr. Hampton: If it is a Sabbatarian type of exemption.

Mr. Prutschi: Right. Which is what you have now in the present Bill 113 except that it is placing some public identification requirements in terms of religion both for a sole proprietor and a corporation or partnership.

Mr. Chairman: We tend to forget this is an amendment to the act; the other act is still in force. I think that is what you are really saying.

Mr. Prutschi: Yes.

Mr. Zaionz: That is right.

Mr. Chairman: Thank you very much. We appreciate your coming forward. It is amazing how things that you overlook come through in the committee hearings and they really in that respect prove to be very worthwhile. We appreciate your coming forward.

The next group scheduled to appear before us is the Ontario Public Service Employees Union, Mr. Sean Usher, co-ordinator of research, education and campaigns, and Jim Onyschuk, research education officer.

Although I probably know who is who, I do not think Hansard does. Perhaps you would be good enough to identify yourselves for purposes of Hansard. You have 30 minutes; it is your time. We are here to listen. If you choose to use the entirety of that 30 minutes, that is your prerogative. If there is time left over, I will judiciously attempt to allocate equal amounts to each of the parties who are representatives on this committee. We have your brief. Please proceed.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

Mr. Usher: I am Sean Usher and on my left is Jim Onyschuk.

Our union, as you know, represents approximately 100,000 workers in all parts of the province covering 318 collective agreements. We represent a cross-section of Ontario society through our membership. These men and women perform many vitally important functions meeting the needs of people whose essential needs must be met 24 hours per day, seven days per week, as well as providing services upon which the people of the entire province depend.

Our members deal with virtually every variety of work shift, including the 7.25-, 8-, 10- and 12-hour days, flex time, compressed work weeks, rotating shifts, fixed shifts and an averaging system of hours figured over one year as well as the standard Monday to Friday or Monday through Sunday work.

We do not have exact data on how many work under each system; however, these are large numbers in every case. We estimate that some 9,800 or approximately 14.5 per cent of our members in the Ontario public service work continually on this basis. On any given Sunday, there may be as many as 5,000 Ontario Public Service Employees Union members who are on the job, including many non-Ontario public service members.

We accept the necessity for such shift and weekend work. OPSEU members who are nurses in provincial psychiatric hospitals, correctional officers in jails and attendants in facilities for the developmentally handicapped all understand far better than the rest of us can that they cannot always expect to go home at the end of the afternoon or have weekends off.

Working hours which extend throughout the week are also obligatory for many of our members whose duties are far removed from institutional care. Snowplow drivers work through the night in adverse weather to keep our highways open, fire-watchers must be on the job through long and lonely hours while fire threatens, ambulance officers need to be on call at all times and, important though less dramatic, taxpayers expect that government facilities will be guarded even when the last desk lamp has been turned out.

This is not the place to make a detailed submission respecting the Crown Employees Collective Bargaining Act, but OPSEU is bound to point out that the exclusive management rights covered by subsection 18(1) of the act over such matters as complement, classification and work methods and procedures have unreasonably restricted the union's capacity to negotiate items arising in relation to shift work.

1510

As indicated, OPSEU fully accepts that some people must be available to work overnight in all institutional care facilities, but section 18 precludes the union from resolving understaffing problems at the bargaining table since complement issues cannot be raised there. The result is that our members continue to be subject to danger, and many of them are in fact assaulted in shift and weekend work situations.

OPSEU and other unions formally requested revisions to the Crown Employees Collective Bargaining Act in this and other areas in April 1987. A positive response from the government of Ontario would allow such adverse consequences of shift and weekend work to be resolved in contract bargaining.

We recognize that our members are not the only ones who work at night and on the weekend. Police and firefighters, transit workers and those in communications all typically work shifts. Only some of these workers are employed in what are usually considered to be essential industries. It is one of the many indefensible ironies of the Crown Employees Collective Bargaining Act that all members of the Ontario public service are denied the right to strike while those employed in urban transit or the generation of electricity are not so restricted.

It is also pertinent that many industrial facilities operate around the clock, seven days a week, and that those who earn their living in a great variety and number of service occupations are commonly required to work evenings and weekends. Indeed, government figures suggest that as much as 34 per cent of the labour force now works, at least sometimes, on Sunday.

Bills 113 and 114, if passed, will obviously increase the extent of what has been called Sunday working in order to staff the stores that open to provide Sunday shopping. Yet we should acknowledge the degree to which Sunday has already become part of the working week for many hundreds of thousands of Ontarians, and hence, for the members of their families.

Turning more specifically to the bills that are before this committee, OPSEU first wishes to question the support for increased Sunday shopping which is fundamental to Bill 113, An Act to amend the Retail Business Holidays Act.

We represent workers in regard to their terms and conditions of employment, so our prime concern is what happens to our members on the job. But OPSEU's concerns, like those of our members, extend far beyond the workplace. We consider that the extension of Sunday shopping constitutes an unhealthy expansion of the already enormous influence of materialism in our society. Recreational and cultural activities, which will surely lose ground in the face of more general Sunday shopping, play a crucial role in sustaining our health and humanity. The long-standing decline of religious observance, at least within churches that hold Sunday to be of significance, will likely be accelerated. As unionists, we deplore the impact the law will have on those retail workers and their families whose Sundays will be disrupted.

It is hard to understand how the increased freedom conferred upon the shopaholic of our community can be seen to outweigh this array of adverse results for so many other people.

It is also impossible to grasp the economic rationale of a bill which, by truckling to the materialism of those whose highest spiritual yearning is to shop till they drop, will almost certainly drive up consumer prices by imposing the costs of Sunday shopping with no realistic prospect of increasing overall sales.

OPSEU acknowledges that Bill 113 confers authority over Sunday opening on regional municipalities, supposedly to permit responsiveness to local community needs. But in practice, we believe that the competitive pressures unleashed when one community goes for Sunday shopping will rapidly propel us towards wide-open Sundays from one end of Ontario to the other. This unwelcome result, sweeping away the benefits of a common pause day, which was so strongly supported by all parties in the 1987 report of the select committee on retail store hours, will be properly laid at the door of provincial legislators.

OPSEU's second objection is that Bill 114, An Act to amend the Employment Standards Act, purports to extend protections to retail workers that are not enjoyed by those in other areas of provincially regulated employment and yet, at the same time, fails to deliver upon the government's repeated promises that workers in this one sector would be protected against adverse treatment by stores that open on Sunday.

OPSEU applauds the stated intent of the proposed amendments to the Employment Standards Act to strengthen the rights of retail workers, but we do not believe that they will have much practical effect. For although Bill 114 supposedly provides that employees in retail business establishments, "will be able to refuse work that they consider unreasonable," its actual provisions are too weak to sustain that right. Subsection 39k(2) of the bill requires a referee to take account of seven specific factors in determining whether it is reasonable to refuse Sunday work.

We are not impressed. Provided that employers implement such measures as a rotation schedule for Sunday work and negotiate applicable provisions in the collective agreement, it is hard to see how the retail worker will be able for long to sustain his or her section 39h right.

We predict, indeed, that Bill 114 will benefit retail workers no more effectively than the Occupational Health and Safety Act that shielded all Ontario workers from unsafe work. Retail employees will, in fact, turn out to be routinely subject to the requirement to work on Sunday, however strongly they object to such work and however hard they try to use Bill 114's supposed protections.

At the same time, the government's pretensions to have protected retail workers have highlighted the unfairness of Ontario's overall labour laws in regard to Sunday work. If some retail workers do in fact succeed in using Bill 114 to stave off Sunday work, those of our members who cannot invoke comparable legislative protection will be bound to wonder why they are second-class citizens under Ontario's new, improved labour laws.

After all, shift and weekend work tend to increase illness, absenteeism and job turnover. Those who have long been subject to such work schedules on the ward or in the boiler room would be delighted to have the opportunity to

assert that it is unreasonable for them to be required to work on Sundays, however difficult it may be to win such a contention.

This patent unfairness could prove to have serious legal consequences for Bill 114 and hence for the government's overall approach to Sunday shopping. The United Steelworkers of America noted several months ago that an amendment to the Employment Standards Act, purporting to entitle retail workers to time and a half for Sunday working, discriminates unfairly against the industrial workers, civil servants and other members of the workforce who enjoy no such premium rate.

Bill 114 may then prove to be in breach of the equality rights provisions of the Constitution. Should a challenge be brought and succeed, the government's bid to protect retail workers could force it to choose between the currently proposed protections for that sector and extending them to everyone being subject to Sunday work.

There is, to be sure, considerable scope for overhauling Ontario's labour law regime. We point out in this connection that the government has yet to respond definitely to, let alone act upon, the relatively modest recommendations for modifying the existing laws that were produced in 1987 by the Task Force on Hours of Work and Overtime.

OPSEU joins the overwhelming majority of deputants on Bills 113 and 114 in rejecting the government's approach to the issue of Sunday shopping. Bill 113 runs counter to the interests of working people and their families in maintaining a common pause day in this province.

Bill 114 signally fails to extend the protections which it pretends to offer to retail workers while underlining the government's disdain for the employment rights of the OPSEU members and others who must now work on Sunday. We call upon members of this committee to heed the criticisms which this pair of bills have provoked and urge the government to go back to square one.

It cannot be pleasant to have to sit day after day listening to thoroughgoing condemnations of this Sunday shopping initiative, but the message must surely have gotten through by now. What is proposed by these two bills is fundamentally wrong and highly unfair.

Mr. Chairman: We have six minutes for each caucus.

Mr. Philip: The complaints that I get from people who would like to shop on Sunday are people not so much that they want to shop on Sunday for suits, cars or refrigerators, but I get complaints that they would like to go down to the municipal office to get some of the services of a municipal office on Sunday because they are working Monday to Friday.

They would like not to have to take a day off work to go down to the Workers' Compensation Board to settle an old claim. If other stores are going to be open, why should the liquor store not be open and the beer store?

Would you agree with me that if this legislation goes through, while you may be here arguing for the quality of life of people who are not members of your union, it will not be very long before people are going to be saying: "Hey, this makes no sense whatsoever. Why should I be able to buy a pair of shoes on Sunday, but can't get more essential services, the services I badly need in my life at this moment? Why should some public service offices not be open?" Does that make some sense to you?

1520

Mr. Usher: I suppose one could reason along those lines. I have not heard that argument articulated much, but it seems reasonable that ultimately it would follow.

Mr. Philip: Would you agree with me that this bill may not only be leading to wide-open Sunday shopping, as is happening now in British Columbia and Alberta, but may also be the wedge that will eventually mean liquor stores will be open on Sunday and municipal offices will have to be open on Sunday, because it makes no sense to have stores open on Sunday without having other kinds of services, some of which could be called retail, open on Sunday as well?

Mr. Usher: I think the important thing here is that we protect the issue of a common pause day by rejecting this legislation.

Mr. Philip: Supposing somebody does exercise his rights under Bill 114, I recognize that your union and other unions, have all said that it is not worth the paper it is written on. At the present time, how long does it take you to get a complaint under the Employment Standards Act dealt with, an average complaint? Are you aware of the time lag?

Mr. Usher: We do not exercise our rights under the Employment Standards Act that much, although some of our members do. One of the major problems we have in the resolution of complaints, whether under the Employment Standards Act or under other legislation, is that the time elapsed is unreasonable in almost all cases.

Mr. Philip: The ministry has said that it is not going to add any more employees in order to deal with Bill 114. One hypothesis could be that Bill 114 will be seen to be completely ineffective and, therefore, the reason they do not need more employees is that nobody will waste his time filing under it. That is the position that has been presented by both management and union representatives. The other theory could be that if a whole bunch of people file under it, without having more employees, they are simply going to backlog everything else. Do you have any views one way or the other as to which way you might lean on that?

Mr. Usher: I have a feeling that we would probably get into a backlog situation. In most cases, we are inadequately equipped to deal with the grievance situation or breach of any of the acts, the Occupational Health and Safety Act included, because of lack of people and resources to deal with difficulties under those acts.

Mr. Hampton: The government members have indicated on a number of occasions that they think Bill 114, the Sunday protection legislation, is by itself good legislation, that even if Bill 113 were withdrawn and never to see the light of day, Bill 114 by itself is good legislation. As you have noted, you are a representative of a very large number of trade unionists in the province. I wonder if you could comment on Bill 114 in that context, standing by itself even if Bill 113 were withdrawn.

Mr. Usher: Yes. The first thing is that the legislation has no real teeth to it. The conditions under which the legislation may be invoked make it difficult to begin with, as I pointed out. Second, we have the conundrum of extending rights to a specific group of people without recognizing that, in all equity, those rights should be extended to people like the members of

OPSEU who have to work on weekends. The same rights should, by extension, be given to them. Jim, you have something to add to that?

Mr. Onyschuk: If you look at subsection 39k(2) and just go through it, what do these clauses mean? First, it talks about the referee determining unreasonable ones. We are loaded with grievances determining what is reasonable and unreasonable, and I can see the whole question being raised of whether the referee was considering it in a proper manner.

Where there are terms and conditions of a collective agreement which specifically address Sunday work, okay, the referee will look at that. What is that going to mean? That is going to mean that if you have a premium clause in there, the premium clause shall remain and it is going to put pressure on the employer in the next round of bargaining to try to get that premium clause out, which could lead to greater turmoil.

Mr. Chairman: I think we are going to have to move on. I have extended Mr. Hampton's time to allow you to answer.

Mr. Cureatz: I have three areas I want to pursue very briefly. Thank you for your presentation. On page 4, point 8, you say, "Bills 113 and 114, if passed, will obviously increase the extent of what has been called Sunday working in order to staff the stores which open to provide Sunday shopping."

I can tell you that time and time again my nasty Liberal colleagues across the way have been trying to assure a number of witnesses who have come forward that this legislation does not mean Sunday working, that there is no evidence or proof that the local municipalities are going to instigate wide-open Sunday shopping. Strangely enough, we have had deputants from across the province—we have been on tour—from municipal councils indicating to us that there will be the domino effect; if one municipality opens up, the others will open up.

I like what you say. You are trying to focus on the fact, trying to emphasize to the people across Ontario and to this committee that we are talking about Sunday working—are we not?—that the ultimate, as you foresee the legislation, is going to be wide-open Sunday shopping. That is really what you are saying.

Mr. Usher: Yes, that is the point I am trying to make.

Mr. Cureatz: On page 5, number 11, you say, "But in practice we believe—"

Mr. Ballinger: Sam, you have never been that perceptive before.

Mr. Cureatz: Strangely enough, I am surprised you have finally noticed. It has only taken you about eight weeks of touring around to have that sink in.

Mr. Chairman: You two gentlemen can have your conversation out in the hall. At the moment, you are asking questions.

Mr. Cureatz: You say, "But in practice, we believe that the competitive pressures unleashed when one community goes for Sunday shopping will rapidly propel us towards wide-open Sundays from one end of the province to the other." I am thinking in terms of your union representation, that it would not really fall within your direct appreciation. I am thinking of, say,

the representatives of the United Food and Commercial Workers Union; they might have a feel for that across-the-province domino effect. In terms of your direct representation of your union employees, you might be one step removed from that. Do you feel comfortable that you are really reflecting the concerns of your members?

Mr. Usher: I think we are reflecting the concerns of the membership because our board has voted on this issue and overwhelmingly supports the position we have presented here today.

Mr. Cureatz: Finally, I liked your point 13 on page 6. A lot of deputants have indicated their dissatisfaction with Bill 114. The representative of the United Food and Commercial Workers Union said it was a sham, if I remember—we could always check with Hansard—and that the bill should not be instigated, that on a practical basis it is going to be very difficult to implement, that we are dealing with employees who are usually part-time, women, possibly not well educated. They would be intimidated by approaching their employer and trying to exercise their rights under Bill 114.

1530

You have taken a different approach to it, which I have not seen before. It would seem to me that the step is further. The reality is this large Liberal majority government—I say that for the people at home who are watching, just to refresh their memories about what took place last year—this large, nasty Liberal government, the largest majority in the province of Ontario, has indicated it is going to pass this legislation. My NDP colleague, who is not with us today, often indicated this committee was a sham. Well, you will never catch me using such verbiage.

However, since it is going to pass anyway, can you see amending Bill 114 so that there is any possibility of making it stronger or tighter? Have you directed your mind to that area, or would you? It is going to pass, so how are we going to try to make it better? Can it be made better or is it hopeless?

Mr. Usher: Mr. Onyschuk has already referred to the subsection that we referred to in Bill 14, subsection 39k(2), in terms of the difficulty of deciding what is reasonable and what is not reasonable. There are seven conditions in there that would appear to make it very difficult to make an individual's position stick, in terms of our experience with grievance procedures, the interpretation of collective agreements and the interpretation of acts that apply to the workplace. This is a weasel clause if ever there was one, what we refer to in terms of collective agreements where it is very difficult to sustain an argument based on the parameters that are set out for sustaining that argument. It is weak. We are committedly against extending the issue of Sunday shopping on the basis that it takes away the opportunity for a common pause day. That is our position.

Mr. Chiarelli: There are approximately 20 paragraphs in your brief and essentially all of them are critical of the existing legislation. Correct me if I am wrong, but I do not see any recommendations to amend or improve the Retail Business Holidays Act. Can I infer from this that you are happy with the status quo of that particular statute?

Mr. Usher: Of the existing act?

Mr. Chiarelli: Yes.

Mr. Usher: I would say it is true to say that we have turned our attention to the new legislation as being retrogressive and that the existing legislation has basically served us adequately.

Mr. Chiarelli: Are you aware of the fact that in the existing legislation there effectively is a local option? There are over 100 municipalities that have used the so-called tourism exemption to pass bylaws of one type or another. Gananoque, for example, is basically completely open on Sundays, as is Sault Ste. Marie and parts of other communities. Are you saying you can live with that part of the legislation?

Mr. Usher: We are aware of the fact that there are very limited applications in the case of the tourist industry. That is our understanding.

Mr. Chiarelli: Affecting over 100 municipalities?

Mr. Usher: The fact is it is very limited and limited to tourism; it is not wide-open Sunday shopping.

Mr. Chiarelli: Are you happy with the existing enforcement provisions of the Retail Business Holidays Act?

Mr. Usher: In so far as we know about them, yes. There may be areas where enforcement is not occurring as it should, which I am not aware of.

Ms. Collins: To go back to Bill 114, I heard you say in response to Mr. Cureatz's question that the problem you had, aside from the fact that it was specially designed for retail workers, was the word "reasonable" and how that will be interpreted. Is that correct?

Mr. Usher: Yes, in section 39k.

Ms. Collins: In amendments to the Employment Standards Act put forward by the Ontario Federation of Labour in 1986 to the Minister of Labour at that time, Bill Wrye, it actually used the term "reasonable" in the first section. "No employer shall dismiss or suspend any employee who has been employed for a period of at least three months without just and reasonable cause." Would you not agree that it is a term that is used commonly in labour law, even by the Ontario Federation of Labour?

Mr. Usher: With seven options to be shot down on afterwards? I doubt that the Ontario Federation of Labour did that.

Ms. Collins: In their amendments, they have no criterion at all for the term "reasonable." I can tell you that in Canadian labour law there are at least 47 examples of definitions of the term "reasonable." There are test cases.

Mr. Usher: The fact is that on the face of it the use of the word "unreasonable," with the seven subconditions that are in here, is one that is wide open to abuse in terms of determining whether something is reasonable or not.

Ms. Collins: You are saying then that the 47 examples we have presently in Canadian labour law would not be a guide, if you like.

Mr. Usher: What I am saying is that in relation to Bill 114, that section is a very weak section. If one were to enforce one's right to refuse,

it is a section that makes it very difficult to do so on the face of it.

Mr. Onyschuk: You are taking the concept of reasonableness out of context. When you see it referred to in labour legislation, it is referring to the employer-employee relationship, that there be a reasonableness between those two parties and that it be the basis on which to determine whether or not a party has acted unreasonably. There is a lot of debate over what this term means. To somehow say that the referee in this particular section is now going to be open to reasonableness in terms of interpretation at the same time you tie it to seven specific kinds of circumstances makes it very difficult.

The one point I want to make is that you are jeopardizing a lot of individuals who do not have the benefit of a collective agreement and you are putting them in an awkward position if they choose to exercise this act. They do not have a union to call upon to assist them in doing battle. All they will have is a referee. Have they the guts?

Given our experience with stronger labour legislation, such as the Health and Safety Act, which lays down very strong protection for workers, we find even under that kind of legislation workers are fearful of utilizing that act. We cannot see how it is possible that some worker who is working part-time and has no union protecting him is going to somehow apply this act. Your government is putting these people in jeopardy should they try to exercise this act.

Ms. Collins: I find it interesting that you make a comparison between Bill 114 and the Occupational Health and Safety Act. In effect, you are saying it is no more effective than the Occupational Health and Safety Act. Are you suggesting that workers in this province have not exercised their rights under the Occupational Health and Safety Act?

Mr. Onyschuk: You did not hear what I said.

Ms. Collins: I heard what you said.

Mr. Onyschuk: I said that even given the fact that they have stronger legislation, workers are hesitant to apply it. They are fearful of it. It is a human nature situation and it is only when they get in a very difficult situation that a lot of workers will stand up and utilize that. But this piece of legislation is very weak. You show me a worker who is working part-time, who does not have a union, who is going to apply this.

Mr. Chairman: Thank you very much for bringing your views forward. They are of interest to the committee. We appreciate your taking time out to do that.

The next delegation we have to appear before us this afternoon is Markborough Properties Ltd., George Schott, senior vice-president of shopping centres. Have I pronounced that name properly or have I shot it?

Mr. Schott: No pun intended. Yes, it is pronounced correctly.

Mr. Chairman: Fine. If you would care to have a seat, Mr. Schott, you have 30 minutes. It is your time. We are here to listen to you. If you choose to use all of that time, that is up to you. If not, I will attempt to distribute it equally among the three parties that are represented on this committee, and they will be asking questions, making statements, etc. We have your brief, so would you please start.

MARKBOROUGH PROPERTIES LTD.

Mr. Schott: My remarks represent the views of Markborough Properties Ltd., owners and operators of three Metropolitan Toronto area shopping centres in Ontario as well as other properties across Canada. Markborough Properties is controlled by the Hudson's Bay Co., whose retail operations have already been represented before this committee.

I am here today because of our serious concerns as commercial landlords regarding both the existing Retail Business Holidays Act and the proposed amendments under consideration by this committee. You have heard from many retailers, including Barry Agnew of the Bay and Simpsons, that the Retail Business Holidays Act and Bill 113 discriminate among retailers on a variety of grounds. I will not repeat those arguments and I would encourage you to review Mr. Agnew's presentation if you need to be refreshed about those points.

It is the opinion of Markborough Properties that these two pieces of legislation also discriminate among shopping centre operators, put shopping centre operators in the untenable position of having to determine at what point to open the malls for Sunday shopping and make it impossible for mall operators to fulfil our obligations as landlords to our tenants.

We have reviewed the transcripts from some of the previous presenters and we were disappointed to note certain committee members' characterizations of shopping centre operators. To judge by their comments and questions, some members seemed to be of the opinion that we are greedy landlords sapping merchants of their hard-earned dollars, offering nothing in return and throwing our tenants out the door at the first opportunity. Let me take a few moments to try to correct that false image.

The most important point I would like to make is that mall owners prosper only if their tenants prosper. This might appear self-evident, but it appears to have been lost in these discussions.

Our leases are net net. Tenants are charged a basic annual rent and operating costs based on square footage and expected sales revenues. Most leases contain a negotiated percentage rent clause which is triggered when the tenant's sales exceed a break point.

A shopping centre operator's lease agreement with a tenant is more than just an agreement by the tenant to give money to the landlord in exchange for the use of X square feet of real estate. The landlord also agrees to provide a number of services to the tenant. The obvious ones are maintenance and security, but maintenance and security services alone are not sufficient to explain the dramatic growth of shopping centres in North America. The principal reasons that store owners are attracted to shopping malls are marketing and location. Shopping centres spend substantial amounts of money advertising and marketing their shopping malls to the surrounding catchment areas. Our job and our obligation to our tenants is to create an environment that will attract people to the mall and increase the potential customer base for our tenants. For that reason, we work very hard at integrating ourselves into the local community so that we can become a focal point for the community.

Today shopping centres are more than just places to shop. Most shopping centres provide space for displays by local organizations, offer educational programs and participate in local fund-raising efforts. Visit an indoor mall any day of the week and you will see people using the park benches as meeting places, people in exercise clothes taking advantage of our controlled climate for a good walk and people learning about everything from home decorating to how to use their local library.

In our Woodside Square shopping centre in Scarborough, we are participating in an exciting pilot projet with the board of education whereby space is being made available for classes geared to students who are intimidated by the traditional school setting.

An indication of the success of shopping centres' marketing efforts is the recent growth in business improvement areas. Essentially, these BIAs are trying to mimic the mall concept by offering a cohesive image to the surrounding community.

Like any other business, the shopping centre industry is a competitive one. If we do not treat our tenants fairly and honour our obligations to them, then they will leave and go elsewhere when their leases expire, and that is not in our interest as business operators. A high turnover of tenants is not our goal. Our business thrives when we have a steady, stable, prosperous tenant base. Successful tenants generating high sales create a prosperous mall with low turnover, give a positive image to the community and our customers and act as an incentive to other store owners to move into our malls. Vacant space and high turnovers create a negative image and reduce profits.

We are very concerned about the extraordinarily discriminatory effects of both the Retail Business Holidays Act and Bill 113. The government, and I understand most of the members of this committee, have acknowledged many of the flaws of the existing Retail Business Holidays Act. But instead of dealing with the root cause of this unfairness, the proposed Bill 113 continues much of the Retail Business Holidays Act's inequities while opening up the possibilities for countless others. As landlords, these inequities affect us in a number of ways.

First, at the moment, approximately 22 per cent of our tenants are eligible to open on Sundays based on the size or type of goods sold, but because 22 per cent is not sufficient to make it economical to open malls, the malls remain closed. Tenants, whose only access is from the mall interior, must also remain closed even if, by law, they are permitted to do business on Sunday. However, those tenants who are fortunate enough to have access directly to the outside are able to open, putting their competitors on the inside at a disadvantage.

Second, the discriminatory provision of the RBHA and the provincial framework that refer to store size and number of employees cause further competitive inequities among our tenants. The 2,400-square-foot store selling handcrafts or books is certainly in competition with the 2,800-square-foot store selling the same merchandise.

Under the proposed legislation, these inequities face further extension with an increase in the allowable size of pharmacies to 5,000 square feet. I understand that this committee is giving consideration to a request to further increase that to 7,500 square feet.

Store size is sometimes a difficult concept to envision. To put that in perspective, the size of an average—and I emphasize "average"—store in one of our malls is approximately 1,500 square feet, already more than large enough to handle the dispensing of emergency pharmaceuticals.

We would argue that any pharmacy that is 7,500 square feet has a large enough mix of goods to be competing with both our department stores, tenants and with many other smaller stores that will not be allowed to open, particularly specialty boutiques that carry cosmetics, perfume, hosiery or stationery supplies. We and you have a responsibility to these tenants to provide them with an even playing field, a responsibility we will not be able to carry out under this legislation.

Third, we are very concerned about delegating to the municipalities the right to designate certain geographic areas as being open on Sunday. The existing tourism exemption has proven to be unworkable. The Solicitor General (Mrs. Smith) has rightly acknowledged the many abuses of the tourist designation that have taken place.

The new geographic designation simply expands the potential for abuse. It means that municipal councils will have the ability to be totally arbitrary in their future decisions, meeting no guidelines, answerable to no one, with no avenue of appeal. Councils may simply designate existing tourist zones to be geographic zones, apply whatever other distinctions they may wish to apply and continue the existing inequities.

There will be no relief for the large Toronto mall located immediately north of the downtown Toronto Simpsons store that currently must remain closed on Sunday, despite being Toronto's number one tourist attraction; nor will there be any relief for an existing shopping centre and its tenants that suddenly finds itself to be a victim of discrimination if a local council decides to offer a geographic designation to a developer as an enticement to build in an undeveloped part of the municipality.

Local councils should have the authority to decide what is most appropriate for their communities. However, the province should not give municipalities the tools to extend the existing discrimination.

Fourth, we are opposed to section 5a of Bill 113, which declares invalid any lease provision that requires a tenant to open on a holiday. In jurisdictions where opening on Sunday is not permitted, we would never act in such a way as to force a retailer to break the law.

However, the right to open or to close on Sunday is very much a part of our lease negotiation in jurisdictions where Sunday shopping is permitted. Agreement between the landlord and the tenant on this and other aspects of the lease are subject to many considerations. We do not believe the government should interfere with this aspect of the marketplace. In Alberta and British Columbia, we have worked co-operatively with our tenants to determine Sunday hours and we believe we can conduct our Ontario operations in a similar manner.

1550

Our principal obligation to our tenants is to provide an environment that attracts shoppers to our malls and encourages them to purchase goods. Our ability to do that rests in part in making sure we offer consistent hours to our shopping customers so that each store benefits from walk-by traffic. If

shoppers are unsure about which hours stores are open, they will not frequent the malls. If one section of the mall is relatively deserted because some store owners choose not to open, the stores that open will suffer. Adherence to general mall hours of opening is one of the considerations store owners take into account when deciding to seek tenancy in a mall as opposed to an independent location.

Finally, although Bill 114 does not affect us directly as employers, we feel we should comment on behalf of our tenants. It is our view that the current Employment Standards Act provides adequate protection to all workers, including retail workers. To single out retail workers for additional protection is unfair to the 1.4 million nonretail workers who can be asked to work on Sunday.

Considerable conjecture has occurred with respect to the increased costs of opening for business on Sunday. Opponents of Sunday shopping project huge cost increases which will be passed along to the consumers. That hypothesis is totally false and misleading. Basic rent is a fixed expense that will not increase as a result of Sunday hours unless those additional hours yield increased revenues in excess of the negotiated base rent. In that case, both the tenant and the landlord benefit. Inventories are fixed. Heat, light and hydro for additional Sunday hours are minimal. Therefore, the only significant additional expense would be for wages.

It is our experience in Alberta and British Columbia that in most cases those cost increases are more than offset by additional revenue generated by Sunday purchases or the retailer has adjusted his operating procedures to reflect the shift in consumer spending habits.

There has been a great deal of discussion about the need for legislation to protect a common pause day. We would argue that there is no common pause day to protect in Ontario. Ninety-two per cent of Ontario workers, including 31.6 per cent of retail workers, are not covered by this or any other similar legislation. That means 1.4 million Ontario workers can be asked to work on Sundays, including our management and employees.

No matter how you define "common pause day," it does not exist. It does not exist for the retail worker whose spouse works for the Toronto Transit Commission or the Royal Ontario Museum. It does not exist for the convenience store worker, antique store owner or restaurateur. It does not exist for the continuous shift worker, air rescue pilot or nurse. It does not exist for our security and maintenance staff who already work on Sundays to protect our property, our tenants and our communities.

We recognize that attitudes towards Sunday work vary from community to community, in this province as in many other jurisdictions. Some communities with significant tourism welcome Sunday shopping as an economic boon, while others prefer to keep all retail operations closed. In order to accommodate these differing values, many provincial and state jurisdictions have moved to municipal option, allowing each community to determine its standards with respect to Sunday opening.

We are of the opinion that this represents a responsible and responsive solution to the issue of Sunday shopping and in this respect alone we support the direction of the legislation being considered by this committee.

We do not support the many provisions of the legislation that further extend the discrimination found in the Retail Business Holidays Act through the revised provincial framework and the proposed extension of power to penalize and discriminate, which is under consideration for transfer to municipalities under Bill 113, section 4, specifically subsections 4(3) and clauses 4(4)(a) and 4(4)(e).

It is our opinion that the proposed legislation, in conjunction with the existing provisions of the Retail Business Holidays Act which will continue to be in effect, have been badly drafted and will produce a discriminatory and unjust law which will be impossible to enforce.

Markborough Properties Ltd. is in favour of Sunday shopping. We support Sunday shopping because we believe a significant portion of our customers, our tenants, want it. However, if it is the decision of this committee and the Legislature that Ontarians require a common pause day, then we will honour that legislation but only if it is a common pause day for all workers, not just selected workers in the retail sector.

Thank you for your careful attention to these comments.

Mr. Chairman: Thank you. Four minutes for each caucus.

Mr. Cureatz: It was all I could do to restrain myself finally having another big bad wolf come before the committee. Strangely enough, as indicated by my NDP colleague through whispers, it was not necessarily members of the committee who recognized such owners as yourself or those whom you represent as a big bad wolf but the tenants within the large shopping plazas; they felt intimidated.

Mr. Philip: They appeared before the committee.

Mr. Cureatz: There is so much to be asked. I could have great fun, but I will tell you it is like what has been happening to these rascals across the way; it is fish in a barrel. We could just have great fun with you. It could just be a riot, but I will restrain myself. I am just going to ask you this question. Where do you live?

Mr. Schott: Whitby.

Mr. Cureatz: Whitby. My goodness, my area! With my luck, it is going to be in Durham East.

Interjection: He even voted for you.

Mr. Cureatz: That we doubt because—it all depends on what part of Whitby. We will talk about that later.

In Whitby have you had occasion to drive around on Sunday?

Mr. Schott: Yes.

Mr. Cureatz: Have you ever noticed a difference on that particular day, traffic patterns or intensity of movement of people?

Mr. Schott: Yes. There is an intensity of movement of people towards Pickering to the flea market.

Mr. Cureatz: I am familiar with Pickering. No problem. Do you feel there is a greater intensity on Sunday or a lesser intensity?

Mr. Schott: In volume of traffic or just in direction?

Mr. Cureatz: Just overall perception.

Mr. Schott: I do not know.

Mr. Cureatz: That is a pretty good answer, but you know what? I think you are kidding. I think you know darned well there is less intensity on Sunday in communities across the province, and I am familiar with Pickering, the flea market and all that stuff. I put it to you people across the province want a common pause day. They do not want what you are putting forward in terms of working on Sunday or Sunday shopping. That is my perception.

It was a very well written brief, I suspect not by yourself because you look like a very fair person. I do not think you believe what is in this brief; I really do not. We are talking about the quality of life in Ontario. Do you have children?

Mr. Schott: Yes.

Mr. Cureatz: What ages are they?

Mr. Schott: They are 14, 11 and 9.

Mr. Cureatz: Very close to the same age as my children. I will tell you, I have been elected, I am fighting hard and I am going to keep fighting these rascals across the way. We will have a great time the next election talking about Sunday shopping. I am fighting for them too because I want to have a common pause day and a quality of life that I have a perception for in Ontario. I am disappointed that you do not have it. We will have that difference out from time to time in various elections and see who wins.

Mr. Chairman: You have one minute, Mrs. Cunningham, of four.

Mrs. Cunningham: Thank you for appearing before the committee. When a couple of your colleagues appeared before, meaning people who were also interested in large properties and malls, I asked them if they had asked any questions of the workers in the malls. I am now talking about the people who have to work in the retail business. I wondered if your particular group thought about that at all as far as their wanting to work on Sundays is concerned. Are you aware of any surveys, did you take any yourself or would that even be a concern to you?

Mr. Schott: With the workers we have not conducted a survey.

Mr. Chairman: Thank you, Mrs. Cunningham.

Mrs. Cunningham: That was a whole minute?

Mr. Chairman: Yes. Would you believe your colleague's was three minutes?

Mr. Cureatz: That joint soliloquy?

Mr. Chairman: Mr. Philip. Four minutes.

Mr. Philip: I find it an interesting argument you are making on the last page, that somehow Ontario will be a better place if, instead of having 160,000 people working on Sunday, we have 500,000 people working on Sunday. I find it kind of an interesting thrust. I doubt that the population of Ontario would agree that somehow they would be better served if 500,000 people were working in the retail industry instead of 160,000. Those are using the minister's own figures, which are no doubt self-serving and so probably somewhat conservative.

In your statement, you stated that basically you feel that consumers and your merchants want this. Have you surveyed your own merchants, those who are in your own mall, and asked them whether or not they would like to remain open on Sunday?

1600

Mr. Schott: We have taken a survey of owners and the head offices in terms of trying to get a consensus as to whether or not they would be in favour of opening. For the most part, if you took it to a vote, I think you would get a positive in terms of a Sunday opening. There are several conditions with everyone's response, but in general it is favourable.

Mr. Philip: Would it be fair to say that a majority of the stores in your malls would be chains and, therefore, you are not dealing with independent owner-operated stores? What the people you are surveying are saying is that they would like the stores open, not that they would like to work on Sunday, because unlike the independent merchants, they are not going to have to be in the stores. Is that correct?

Mr. Schott: For the first part of your question, yes. It is probably a 70-30 blend. We have 70 per cent national and 30 per cent local. Of the people we had discussed this issue with, in fact, a lot would not work in the stores. That is correct.

Mr. Philip: So the head office managers do not care if their managers and their employees work on Sunday as long as they can attract a bigger volume of business?

Mr. Schott: My experience has been that the head office workers in the national chains, the successful ones, are in the malls on Saturdays, not necessarily working but they are in really looking at how their business operates.

Mr. Philip: Yes. I drop into my riding office on Sundays too, but I do not stay there all day.

Interjections.

Mr. Philip: I had so many other questions. My colleague here is just biting at the—do you want the time?

Mr. Hampton: Go ahead.

Mr. Philip: I want to ask you something about your lease agreements. You say that in Alberta and British Columbia, in most cases, the cost increases are more than offset by additional revenue. We have heard evidence to the contrary. We are presently having somebody look up that evidence.

Is it not true that under your present lease agreements, if you were to open on Sunday, you could have many merchants—and we have heard evidence that this has happened in the west—who would actually be open on Sunday, would have a higher revenue, you would make more money because part of your revenue comes not just on the square footage but also on the amount of money that comes in the door, but that they would actually end up with less profit at the end of the day?

You end up with more rent. You are the only guy who cannot lose on this. If you are open on Sunday, and that increases the revenue, even if the costs are prohibitive to the local merchants because of wages and so forth, you still make on it because those additional costs that he has—namely, salaries—are not passed on to you. You get it at the front end. You are front-end loaded.

Mr. Chairman: It is going to have to be a short answer, I am afraid. I thought you had answered it in the brief.

Mr. Schott: Yes. I guess what I would say in as short a time as possible is that the only way a mall is successful is if all the merchants are successful. If you force the merchants to open on Sunday and, in fact, you are driving them out of business by reduced profits, then the effect on that investment from the landlord is astronomical, because you are taking an asset and driving it to a lesser value.

Although we would get the benefit of increased sales and we do not share the same cost-sales sort of risk as the retailer, if we drive the retailer out of business, then we are out of business. We are sitting there with a vacant shopping centre with several million dollars invested.

Mr. Chairman: Ms. Hart, you have four minutes.

Ms. Hart: I, too, am delighted to see you here. Your brief has certainly raised some issues we have not dealt with before. We have heard about the curmudgeonly mall owners; we have been hearing from tenants and employees of tenants, but never once did anyone mention that in your lease structure there is a break-even point before which your tenants are not paying a portion of their gross revenues. This, obviously, makes a difference in looking at this whole thing.

Mr. Philip: Are the curmudgeons related to the—

Ms. Hart: I am one of the curmudgeonly Liberals, as you may know.

The business improvement area point you make strikes a responsive chord. I know it is certainly true in my own community and I am sure it will be in others.

I would like to touch on a couple of issues. One is the pharmacies; that is something we are having to deal with. Right now, the proposed exemption is 5,000 square feet. You make the point that anybody at 7,500 square feet is in competition with some of the owners in your malls. What about the problem we ran into up north, where the only pharmacy open in town on a Sunday is bigger than 5,000 square feet? We ran into that not only up north but also in London. We ran into it a number of times, and that causes us a difficulty as we are trying to make this act fairer, to eliminate the roping-off which never worked very well. Have you got some advice for us on that?

Mr. Schott: Again, I think it is a municipality issue and they can build in the flexibility. In the situation you have described, you would have to have a special ruling on that particular business in that particular town. I do not know how else you would deal with it.

Ms. Hart: That raises another point. You have mentioned the municipality and the local option several times in your brief but you seem to be a little uncomfortable about some aspects of it. Would it increase your comfort level if, in the municipal option, we added a process that required all industry people to be notified to participate in the decision-making or at least in a hearing? Have you got some advice for us on that?

Mr. Schott: It would help. I would have to think about that for a bit.

Ms. Hart: I am not giving you a specific set of guidelines. It is something we have been asking people about and thinking about. For example, people in adjacent municipalities may well be affected if there is a mall just outside a municipality which wants to open up, so it would seem that people like that should get notice before the originating municipality made the decision and have some input in the process.

Mr. Schott: If it is answering the needs and is sensitive to the needs of the community, what you are recommending would be a positive step.

Ms. Hart: One other quick thing: Because we have heard so much negative stuff about malls, it makes me think there has to be a fair bit of unequal bargaining power in negotiating leases. That is a tough thing to get into for governments; they are intruding in private business arrangements, but that is what section 5a stems from, the section that deals with giving retailers the right to refuse to open on Sunday even if their mall lease requires them to be open the regular hours of the mall.

I can see how it would not be needed if all was fair and the mall owner and the lessee had equal bargaining power and the lessee could feel confident that his or her concerns about whatever were being heard by the landlord. But that is obviously not the case across the province, and that is causing me some concern. Have you got some comment on that?

Mr. Schott: It is a direct result of the competitive position you are in. In Alberta, for example, there are examples of local tenants in community centres who have negotiated in their lease the right to close on Sundays, as a direct negotiation with a major landlord. It depends on the position of the mall in the community, the strength of the mall. There is always going to be an advantage. If it is a national tenant that is in hot demand, then the landlord will give more concessions. If it is a terrific mall in a great location that is generating \$500 a square foot, the tenant is going to give more concessions.

1610

Mr. Chairman: We appreciate your coming forward and expressing your views. They have helped the committee. Thank you very much.

The next delegation is William Ashley China, Brian C. Stark, treasurer. Mr. Stark, would you be good enough to come forward? Welcome. You have 30 minutes. It is your time. We are here to hear from you. You can use the entirety of that 30 minutes to address us, if you wish. If there is time

left over, I will divide it equally among the three parties that are represented on this committee. We have your brief, so the clock is running.

WILLIAM ASHLEY CHINA

Mr. Stark: Sunday shopping will be costly to everybody. Everybody will lose. Consumers will lose, retail stores will lose, retail workers will lose, the municipal governments will lose, and so will the Ontario government.

Mr. Philip: Maybe we should vote in favour of it then, if that is the case.

Mr. Chairman: I indicated it would be your time, but it would appear that some of the members would like to interfere with that time. You just go ahead. Interjections are out of order.

Mr. Stark: Consumers will lose because prices will increase. Except for the increases in payroll costs incurred by retail stores to staff their stores on the additional, seventh shopping day and the additional government jobs that will result from Sunday shopping, which will be explained elsewhere in this submission, there will be no additional money in the economy available for expenditure on retail purchases on the additional shopping days. Therefore, each and every increase in the operating costs of retail stores will be passed on to the consumers in the form of higher prices. There is no other source from which those increased operating costs can be paid.

In addition to the increased payroll costs, which I will come back to, retailers' additional costs will include more utilities, more heat, more air-conditioning, more electricity for lighting and running elevators and escalators, and additional maintenance expenses because the retail plants will sustain more wear and tear in seven days than in six days.

Retail businesses will also incur additional costs for advertising to attract business from consumers on Sunday. Even more extreme will be the cost increases of the additional payroll for more man-hours and premium wage rates to employees who work on Sundays and holidays.

Some retail stores may be able to staff their stores, or partially do so, based on anticipated business or consumer traffic, but almost every store will require some additional man-hours to operate an additional number of shopping days. However, the number of staff needed to open the door of many retail stores is not flexible. Each position must be manned for some retail stores to function properly. The impact of Sunday shopping will be much greater on those retail stores.

Although it has not been proposed in the draft legislation, the government will eventually be pressed to pass laws requiring employers to pay retail workers a premium for working on Sundays, and even if the government does not pass that kind of legislation, tradition indicates that it will become a necessary ingredient of compensation to gain workers' acceptance of Sunday duty.

Almost all workers now receive premium wages when they work on Sundays and holidays. This has evolved as an accepted practice in many fields, and many workers receive premium wages for working on Sunday pursuant to a collective agreement. Retail workers will not accept less, and especially so when many more employers will be competing for those workers who are prepared to work on Sundays. Also, the unions will be negotiating wage premiums for

their workers at any retail stores that have been or become organized. It is indisputable that all retail stores will be obliged to pay out more to their workers, both for more employee man-hours and in the form of holiday-Sunday premiums.

There is no one else to pay for all these increased labour costs for the additional seventh shopping day, except for the consumers. Consumers include every member of the public. Those increased prices will be in effect on all seven days of the week. Everyone who makes a retail purchase in a municipality where Sunday shopping is in effect will pay more for his purchase in order to finance the option of seven-day retailing.

Retail stores will lose. They do not want open Sunday shopping. It is incontestable that where there is open Sunday shopping, any retailer who does not open for business will suffer a loss of market share. Some retailers may be affected more than others, but any retailer that chooses not to open in an area where its competitors do open will suffer a loss of market share.

Owners of small, owner-operated businesses will be forced to work seven days a week. Owners and managers of larger retail businesses will be obliged to manage their stores on Sundays, if they are open. Owners and managers must, out of necessity, force or persuade workers to work on Sundays against their will. Alternatively, loyal workers will feel obliged to work on Sundays against their own will, because of their sympathy for and allegiance to the owner or manager who must operate the business on the holiday.

Some writings indicate that open Sunday shopping will create jobs, predominantly part-time jobs. Some department stores publicly state that they will rely on part-time help. Not every business can successfully operate with part-time workers. Many retail businesses have built their reputations and success on their expertly trained sales force. These trained people, although highly paid, are in short supply. Retail stores cannot find additional trained people to man their businesses for an additional seventh day, nor can they run their businesses effectively by reducing the number of employees on duty during the present six days of business so as to be able to free up a sales force for an additional seventh shopping day.

These retailers will lose whether they stay closed on Sundays and thereby lose market share or open and employ inadequately trained and part-time workers, thereby lowering the quality of service that has been the very foundation of their success.

With all of this, the retail stores will have no other choice but to increase prices to endeavour only to recover the additional operating expenses that are the direct result of Sunday shopping.

Retail workers will lose. They want to retain the common pause day. Recognition that retail workers needed special protections has in the past been the basis of many laws particularly designed to protect that unique group. This brief will not belabour the legitimate concerns more ably presented by church groups, single parents, women's groups, quality-of-life organizations and others who recognize that the proposed relaxation of retail shopping laws will create hardship on the retail workers and their families.

By proposing simultaneous amendments to both the Retail Business Holidays Act and the Employment Standards Act, the government has recognized the likelihood that retail workers will suffer abuses if Sunday shopping is permitted. In the proposed legislation, and specifically by having proposed

the amendments to the Employment Standards Act, the government has also recognized that many workers are going to be forced to work on Sundays against their will.

For that reason, it has proposed a tribunal to determine the reasonableness of a worker's unwillingness to work on Sundays. It is unfortunate that the major concern of retail workers, whether or not they can be forced to work on Sunday or risk punishment, lost opportunity or even loss of employment, is being referred to a tribunal without adequate definite guidelines. This appears to be a further abdication by the Ontario government of its acknowledged duty to protect retail workers. Retail workers will lose a lot.

1620

Municipal governments and the Ontario government will lose. Costs will go up. A major reason for the government's decision to bring in the new amendments to turn over the decision respecting Sunday shopping to individual municipalities was the government's contention that the Retail Business Holidays Act was not enforceable.

Note that the government appears to be saying that the proposed new legislation would be enforceable in municipalities that do not opt for open Sunday shopping. That position is inconsistent with the government's express reason for creating the municipal option: that the Retail Business Holidays Act was not enforceable and could not be made enforceable. Recent Supreme Court of Ontario and Supreme Court of Canada appeal decisions upheld the legislation. That makes the Ontario government's lack of enforceability claim shallow.

Some of the criticisms of the old Retail Business Holidays Act are being addressed in the proposed amendments. Given a more concerted attempt by the government, the act should become fairly easy to enforce. For example, there have been improvements to the definitions of "holiday" and "offence." There is also a new attempt to provide a fair religious exemption. The course the government is now proposing to travel has potential enforcement problems far in excess of those that have been experienced under the present old Retail Business Holidays Act.

Both the Retail Business Holidays Act and the Employment Standards Act are labour legislation. The government miscalculated the public's need for and attitude respecting Sunday shopping or it would never have embarked on its present course. Rather than back down on its proposal of the municipal option, the government has chosen to try to address the effect of legal Sunday shopping on the labour force and their families.

Proposed amendments to the Employment Standards Act are only token. They fail to provide anything more than written recognition of the problems yet to be experienced if the Retail Business Holidays Act is amended to permit open Sunday shopping. If the government does try to give the workers any significant protection against exploitation, it must then face the need for a drastically expanded department of enforcers and adjudicators to deal with the attempted and actual abuses of workers' rights.

In other words, the government can either abandon the workers by continuing its failure to provide them with real protection or if it chooses to try to give the workers real protection, then the government will have to increase its enforcement mechanism multifold of that required to try to enforce the present old Retail Business Holidays Act.

In any event, there will be some kind of new tribunal with the new costs of operating it. Obviously there will be a new staff of investigators and more prosecutors. Of course there will be additional clerical staff required. This must be the additional employment that we have been told by the Ontario government will be the result of Sunday retailing. All of these people must be paid for by the taxpayers.

These enforcement problems will be ongoing. It will be very expensive so as to affect the Ontario government's budget. The unpopular nature of the labour abuses will command regular high-profile attention in the press. It will not go away before the next election and will be around as long as there is open Sunday shopping, wherever it is.

If we get Sunday retailing, we will require more transit and police services on Sunday and holidays. These will also add to the cost of government that will have to be funded by both the consuming and nonconsuming public. Governments have much to lose.

In summary, if the proposed legislation is passed, the costs will be great for everyone. The consumers will pay more for almost everything they buy. Even those people who never shop on Sunday will pay a share of the price increases. The consumers will pay again when they must bear increased taxation to help to defray the added costs incurred by the Ontario government in its futile endeavour to save face by setting up tribunals and for police and adjudicators to try to stop abuses with inadequate, remedial labour laws as well as to provide additional municipal services necessitated by the added retail activities.

Retail store operators and managers will be obliged to work on Sundays. Their common day with the family will be lost. On top of that, they will be obliged to use their wits to persuade or coerce their employees to work on Sundays in their endeavours not to lose market share to competitors who will be tackling the very same dilemma.

These are the employees, the very special people, whose plight the employer is forced to ignore with deep regret. But ignore he must because in the end the business must come first. After all of these added costs, the retailers can expect no additional profits. At best, they can hope to recover the added operational costs by price increases that must be borne by their customers.

Retail workers lose at the expense of whom? Surely no one will be better off for their sacrifice. Government loses not only because of all the additional costs at all levels but because the labour abuses that result from open Sunday shopping will go on and on and will always be an irritant and an embarrassment. No one wins. Everyone loses.

Mr. Chairman: There are 15 minutes left, five to a caucus. Mr. Philip, you are first; Mrs. Cunningham and Mr. Kanter.

Mr. Philip: Thank you for an interesting brief. By just looking down the list, if I had to predict who would be most likely to be in favour of Sunday shopping, I would have picked your name as somebody who would probably argue in favour of it. Let me give you the reasons.

First, the tourist boards have said that Sunday shopping is a major activity. I think it is sixth on their list. Second, we are told you have a product that is one of the two products that is most bought by tourists,

namely, china and furs. Third, you are right next to two fairly expensive or high-quality rather than expensive hotels. Yet what I hear you telling the committee, which is very interesting, is that from a purely business point of view, an economic point of view, even with all those factors going for you, it does not make economic sense for you to stay open on Sunday. Is that correct?

Mr. Stark: I concur on all the statements you have made. We are probably more directly affected by tourism than most. We are positioned respecting hotels and promote to them very heavily. Yet we still maintain our position that it is not going to be more profitable to operate on seven days than on the six.

Mr. Philip: You also have a very high-quality product. If I were looking for a gift, your store is certainly one of the ones I would go into and which I do go into.

You have said it is going to mean extra costs to your consumers because of the extra costs of staying open that extra day, notwithstanding the fact that you may get extra tourist dollars. Are you likely to get extra tourist dollars by remaining open that one extra day?

That is the argument that the tourist bureaus are making. They are saying: "The tourists are in town. They come in on a Saturday night. The convention starts on Monday, so they come in for an extra day and they are wandering around with all of this money in their pockets. There is a big market for furs and chinaware because they are less expensive than in the United States. If they are going to do their shopping, they are going to do it on Sunday."

Do you lose very many dollars as a result of not being open on Sunday to the tourist trade or are they likely to come back to you?

Mr. Stark: We are convinced that a tourist who comes to town for the most part comes for more than just Sunday. He comes in for Saturday and Sunday, Sunday and Monday or more than that. We are also convinced that if they really want to buy china, they will find an hour we are open and get in and make their purchase. We really do not believe there is anything realistic to be gained by being open Sunday, even though the tourists are more often in town on Sundays than on any other given day.

Sorry, I had another comment to your question and I have lost it.

1630

Mr. Hampton: The case that some of the Liberal members are making is that, since you have obviously taken careful stock of the situation and you realize where your money is made and where it is not made, even with this bill you will not open on Sunday. There are probably other retailers like you who will not open on Sunday, so what is all the argument about? I wonder if you could speak to that.

Mr. Stark: I cannot answer that I definitely would never open on Sunday. I can say that I would have a great dilemma, which I have spoken to in my comments, because, although we are fortunate, I think, to be the leader in our community in the field of retailing that we are in, we are not the only place you can buy china and crystal and whatever. We do have competitors, we have to wear our running shoes daily in order to make sure that we stay ahead of our competitors and I think we would have to weigh the business that we would sacrifice to our competitors by not staying open when they are open.

Mrs. Cunningham: It is a pleasure to have you here this afternoon, and I certainly agree with my colleague Mr. Philip that if I had to guess who would want to stay open on Sunday, I would have guessed you. I have to admit there have been times when I have walked down the street and wished that you were open, for my own personal benefit, but I can really relate to the people who have to work on Sunday and I am glad that you have remained closed.

You talked about the expenses of remaining open on Sunday, and I share your concern in that this is big government here in Ontario right now. Certainly it is bigger than it has ever been before, and they are not too concerned about hiring more civil servants; there is no doubt about it. So when you are talking about enforcing the law, I agree with you. The municipalities have told us about the increased costs for enforcing, for day care and for transportation for workers. You have added to my concern, and that was the one of the Solicitor General's department that has to do with Bill 114. I mean, who is going to be looking at all these reviews, and how long will people have to wait? So I share your concern there and I just wanted to point it out.

I want you to respond to a couple of comments that were made by the previous presenter here today, a witness; that was a group that was owned, I think, by the Bay, and it was a developer who came in here. He stated, "Opponents of Sunday shopping project huge cost increases that will be passed along to consumers," and you stated that. He said, "That hypothesis is totally false and misleading."

Mr. Stark: You are asking me a question. I do not know where else paying the operating costs is going to come from if you do not raise the prices.

Mrs. Cunningham: Well, you are a businessman, so I thought you might say that. He also went on to say there is not a greater cost for heat, light and hydro and that really will not matter much for Sundays. I thought coming from a mall owner that was really something that was very difficult for me to buy.

Mr. Stark: I can tell you they are very anxious to turn off the power as quickly as possible after closing time, even during the days you are open. Why do they do that unless it is expensive?

Mrs. Cunningham: I was going to ask him that as well.

Here is one more: the common pause day. This one really bothered me, and this is a more personal one for you, if you can just think about it on that level. He said, "We would argue that there is no 'common' pause day to protect in Ontario." That is what he stated.

Mr. Stark: To answer that one I am going back to the thought that I had when Mr. Philip questioned me and that I had lost, and that is that we are blessed with seeing a lot of tourists and talking to a lot of tourists, and we are convinced that it is the nature of Toronto and the fact it does have this quiet Sunday, that people do things other than shop, that make those tourists come to Toronto in the first place. We also are concerned about whether we will continue with the tourists in Toronto if we lose this special day we have.

Mr. Cureatz: You said you were in an indoor mall.

Mr. Stark: We are in a mall, although we are on the street.

Mr. Cureatz: So you are a tenant.

Mr. Stark: Yes.

Mr. Cureatz: Who would have the greater leverage, you as a tenant or the mall owner?

Mr. Stark: I am not going to comment on that, in our case at least. I may have to renegotiate my lease one of these days.

Mr. Cureatz: That is the area we want to pursue.

Mrs. Cunningham: You've got your answer.

Mr. Cureatz: That is right. The follow-up question was the possibility of Sunday openings and whether you thought the mall owner might suggest, if Toronto becomes open, that you have to open on Sunday as part of the terms of your lease.

Mr. Stark: It is a distinct possibility. I think you did hear the previous speaker talk about some tenants having enough clout with the landlords that they can control their hours.

Mr. Cureatz: I find that hard to believe.

Mr. Stark: It is possible, but everything is points. If you win one, you lose somewhere else. Yes, you may get that provision, but you are going to have to give up something else in return.

Mr. Chairman: Mr. Kanter, five minutes.

Mr. Kanter: I would certainly like to commend the deputant, whom I recognize. He has come to see me on several occasions about this issue. I think he really has developed an independent, family-owned business in a position where his firm is the leader in its field. In case anyone has any doubts, could there be a person around who has not read TV Guide, the Globe and Mail or the Toronto Star? I notice in a document we received this morning from the tourism people, Key to Toronto, there are several Ashley's ads on the back page and, I guess, page 2 or 3.

Mrs. Cunningham: There is also Paul Magder Furs.

Mr. Kanter: It is quite prominent. A question actually arises from this ad. I notice the hours of the William Ashley company are displayed in this ad. On Monday to Wednesday you close at 6 p.m.; on Thursday and Friday you close at 7:30 p.m.; and on Saturday you close at 5:30 p.m.

Would it not be the case that, at least in some cases, some of your competitors who sell the same or similar merchandise would be open longer hours? Is not your success due to a number of factors, including perhaps location, selection, marketing strategy, a number of things in addition perhaps to the sheer number of hours you are open or closed?

Mr. Stark: Yes, yes, yes and no.

Mr. Kanter: Perhaps you could expand.

Mr. Stark: Our hours are not identical to those of all of our

competitors, but we do open on all the days our competitors open. From experience, we have learned and have designed our hours to meet the hours that most purchasing of our type of product is made.

If somebody can afford to stay open that extra hour and a half on certain evenings and pay his staff to do it, we do not think we are losing too much, but we are bound to lose something. I think it is another story to pick that day, a day of convenience for some, albeit we do not think it is that important or major a group, nor do we think it is anybody who would not buy on the other days if there were no Sunday shopping. Given the opportunity of nothing to do on a rainy Sunday, and there is no good movie or football game on television, who knows? We have to lose, and to what end? What is the advantage for anyone?

Mr. Kanter: However, the decision as to the hours you are open or closed is not based solely on what the government, municipal or provincial, permits you do.

Mr. Stark: Quite right.

Mr. Kanter: It is partly a business decision and partly influenced by the laws, municipal or provincial, that are in effect.

Mr. Stark: And partly by staff considerations.

Mr. Kanter: Fine, I appreciate that. I just have a further comment. I understand there may be another member on our side who has a further question, but I was very sorry Mr. Cureatz did not ask his usual question in this case—

Mr. Cureatz: I have so many.

Mr. Kanter: —about whether the deputant has spoken to his local member.

Mr. Cureatz: I would never have known it.

1640

Mr. Kanter: I want to assure Mr. Cureatz that Mr. Stark has spoken to me on a number of occasions. He has been consistent, he has been clear and he has been courteous. Indeed, he has been a model lobbyist, if I can use that term, which is sometimes pejorative—perhaps I should say "constituent" rather than "lobbyist." I was extremely sorry Mr. Cureatz did not ask his usual question. I think there is another question.

Mr. Chairman: Who is the next questioner? Ms. Collins?

Ms. Collins: Thank you. I just want to bring to your attention that a representative of Woolworth was here this morning. I do not want to compare the type of retail business they are in, but I would like to point out exactly what they have in their brief.

They were opposed to the bill, so they have taken the same position you have, but they have stores in provinces out west which are open on a Sunday. In their brief they say:

"We have not had trouble staffing our stores so far on a voluntary basis. Sunday work has been offered, first, to full-time staff and, secondly, to permanent part-time staff, filling in our requirements.

"We do not offer premium wages for Sunday work, but we do, of course, satisfy regular weekly hours-of-work regulations....most employees choose to work hours to satisfy their home lifestyle and their preference is often not the traditional work hours which you might assume....it appears, however, that one should not necessarily assume that the two days of preference are Saturday and Sunday."

It goes on and on, concluding that "staffing a store for Sunday hours on a voluntary basis is not a difficult thing to do."

They have taken the same position you have on the bills, and yet it is their experience that all the things you say will happen have not happened where they are open. Would you like to comment on that?

Mr. Stark: First, forget about the type of merchandise. The training or lack of training, the skill of people who work in a Woolworth store is dramatically different, I hope, from what we have in our store. I should hope so, and I think you will find that the wages our people command are dramatically higher. Our people are professionals, and I do not think it would take much training for me or for anyone to take over a post in a Woolworth store. Not that I have anything against shopping in Woolworth; there are some things I have sought there myself. But it is not a fair comparison, in my view, to suggest that.

The other thing I have experienced when I have gone into department stores, besides the fact that they lack enough staff in most of them, and there is no service—you are lucky if you can find someone to take your money once you have found what you want—is that I have had the experience of shopping in American cities where I have been in what we call class stores, say, Saks Fifth Avenue or what, on both a weekday and on a Sunday, and as questionable and marginal as it may be on a weekday, usually with good quality staff, it is unbelievably bad come Sunday. It is obvious that they are open because they have no choice.

Mr. Chairman: I think we are going to have to end on that note, Mr. Stark. We appreciate your coming forward and providing us with the information you have; it is useful for the committee and we thank you for that.

Committee members, before you all rush off as though school is out, we do have two items to deal with. The first one is that you may recall back in Windsor—I cannot remember how far back—at a very late hour, when certain motions were moved, I made an oral decision in terms of the fact that a further motion could not be moved. You will have this before you. We apologize for the quality of the type, but this has been following us all over Ontario by way of fax, and I am going to read it into the record as soon as you all have a copy.

Then there is one other item that Susan Swift, our researcher, would like to speak to you about, and then you can all dash out of here and burn your pencils, books and whatever. You all have a copy of it now?

On 31 August 1988, Mr. Philip moved a motion inviting witnesses from British Columbia and from New Brunswick to appear before this committee. The motion was voted on and lost. Subsequent to that, Mr. Kanter moved a motion referring to the same subject matter. Following Mr. Kanter's motion, there was some discussion as to whether it was so similar to the previous motion that it was out of order.

It should first be explained that the correct procedure for Mr. Kanter to have followed to modify the original motion would have been to move an amendment. Consideration, however, must be given to the fact that there was some confusion in Mr. Kanter's mind as to whether or not an amendment he had moved previously was still on the table.

Standing order number 43 states: "'No motion, or amendment, the subject matter of which has been decided upon, can be again proposed during the same session.'

The first question is whether or not the second motion was substantially the same as the first. Both motions pertained to inviting public servants from British Columbia and from New Brunswick to appear as witnesses before the committee. The first motion specified that one of the witnesses invited from British Columbia be a municipal civil servant, the second motion left that specification out. Notwithstanding this difference, both motions are concerned with the invitation of public servants from British Columbia and from New Brunswick and are, therefore, of substantially the same subject matter.

Having established this question, the next consideration must be for the ability of a legislative committee to operate in as unrestricted a manner as is possible when setting out its agenda. The committee must be at liberty to change its mind. Since circumstances may change, the committee must have an avenue for alternative consideration of a previously decided question. However, so as to prevent the delay of committee through the constant repetition of a motion dealing with substantially the same subject matter, there must be some restrictions.

This being the case, the chair rules the motion by Mr. Kanter—and I already did that in Windsor, although it is in much nicer words now, thanks to the clerk—out of order. The committee may, however, wish to consider this matter again at a later date and the chair will allow that only with unanimous consent.

This ruling is nondebtable, so I will not entertain any debate on the ruling.

The second item of business is that Susan Swift, our researcher, wanted to address us with reference to an item.

Ms. Swift: That is right. I wanted to let you know that the drugstore exemption information which I had promised you would be ready today is not ready yet. We had to make further calls on Friday afternoon and some this morning on additional information Mr. Kanter requested with respect to the discount drugstores. That information, I hope, is being collected at this point and I hope to have all the information for you tomorrow afternoon.

Mr. Ballinger: You mean you did not work all weekend?

Ms. Swift: I did work all weekend, in fact.

Mr. Chairman: Thank you very much.

The committee adjourned at 4:50 p.m.

CA20N
X014
- 578

J-31a

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT

Tuesday, September 20, 1988

Morning Sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Philip, Ed (Etobicoke-Rexdale NDP)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

Ballinger, William G. (Durham-York L) for Ms. Poole

Collins, Shirley (Wentworth East L) for Mr. Keyes

Cunningham, Dianne E. (London North PC) for Mr. Sterling

Clerk: Deller, Deborah

Staff:

McNaught, Andrew, Research Officer, Legislative Research Service

Witnesses:

From Allen's Home Hardware:

Gork, Raymond, Owner-Manager

From the Toronto Lutheran Council:

Jensen, Eric

From Loblaw's Supermarkets Ltd.:

Faas, Andrew J., Senior Vice-President, Administration, Central Canada Grocers Inc.

From Long and McQuade Ltd.:

Long, Jack E., President

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday, September 20, 1988

The committee met at 10:04 a.m. in room 151.

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT
(continued)

Consideration of Bill 113, An Act to amend the Retail Business Holidays Act, and Bill 114, An Act to amend the Employment Standards Act.

Mr. Chairman: I recognize a quorum. The first delegation this morning is the Church of Jesus Christ—

Interjection: No, it is not.

Mr. Chairman: I am sorry, just a second. I have got to get on the right page here. The first delegation is Allen's Home Hardware, Raymond Gork, owner and manager. Would you care to come forward and have a seat, Mr. Gork? We have your written presentation before us; all members have a copy. You have 30 minutes. It is your time; we are here to listen to you. If you choose to use the full 30 minutes for your presentation, that is your prerogative. If there is time left over, I would attempt to divide it equally among the three parties that are represented on this committee. Would you like to proceed, Mr. Gork?

ALLEN'S HOME HARDWARE

Mr. Gork: I do not think it is going to take 30 minutes exactly. Here it goes.

Ladies and gentlemen, we live in the greatest city in the greatest province in the greatest country in the world. I believe that sincerely. Right now, right here in Ontario, we enjoy a quality of life far better than that enjoyed by any of our neighbours south of the border. Much of the credit for that must go to those whom we, as citizens of this province, have elected to govern us. This presentation concerns proposed legislation that, in my opinion, threatens to erode that quality of life.

This administration would have us believe that this impending legislation is intended to streamline the Retail Business Holidays Act laws and will not automatically lead to wide-open, seven-day-a-week business. If my memory serves me correctly, however, no less a person than the Minister of Labour (Mr. Sorbara) as much as confirmed that Sunday shopping would become a reality, when, at a meeting on the subject last January, he averred that the average Ontario family could withstand Sunday shopping.

Quality of life is difficult to quantify, but surely a major part of that quality must be the ability to enjoy a day of leisure in the company of one's family and friends. To be sure, the idea of one common day of rest forms part of the oldest piece of legislation in the world. It was promulgated by a bunch of erstwhile slaves in the desert who had experienced at first hand the somewhat dubious pleasure of having to toil seven days a week.

Retail workers, as a group, do not commonly have the pleasure of two consecutive days off a week. Among small business owners, of which I am one, that pleasure is rarer still. I believe that in earlier days, many businesses were closed Mondays to provide that cherished extra day off. Alas, in this highly competitive day and age, that has disappeared. So, too, will Sundays off disappear when competitive pressure forces us to stay open on that day as well.

No one is immune to the effect of seven-day-a-week business. Let me share with you a couple of recent personal experiences.

Recently my wife and I enjoyed a vacation in California. As you all know, Sunday shopping is a reality in most parts of the United States. In the first instance, in downtown San Francisco, we questioned a young assistant in a Neiman Marcus store about how she felt about working Sundays. Her reply was that she did not mind, as she received time and one half and Sundays were pretty quiet; in fact, they were pretty dead. She did say, however, that she was single and that those of her coworkers who had families tried to avoid Sunday shifts, not always successfully.

Our second experience concerned my wife's sister and brother-in-law, who live in La Jolla, near San Diego. They are not engaged in retail business. They own a fairly impressive yacht, so you can imagine that they are not exactly poverty stricken. However, their teenage daughter holds down a job in a supermarket, and it happened that one Sunday, when my brother-in-law took us for an outing on his yacht, she was unable to accompany us as she was working a Sunday shift. We noted also that this was by no means uncommon. Most of their friends were in similar situations, with some member of the family, usually the teenagers or students, unable to join in family activities because they had to work weekends.

The seven-day business week has also had another interesting effect; this is opposite to the experience in San Francisco. In southern California, at least, 90 per cent of all business is done during four days of the week: Thursday, Friday, Saturday and Sunday. In fact, there is a very successful chain of automobile tire retailers by the name of Four-Day Tire Stores, and they do exactly that. They are open only four days a week. Their pitch is that because they do not have the overhead expense of having to employ extra staff, they can pass this saving on to the consumer.

1010

I find it interesting that some of those retailers who are proponents of this legislation are less successful than some leading opponents. No less an organization than Sears, which is after all one of the biggest and most successful United States retailers and which has had wide experience of seven-day shopping, is a prominent opponent. In a similar vein, such prominent retailers as Canadian Tire and Lansing Buildall are also opponents.

Interestingly, one of the leading proponents has had a somewhat rough time of recent years, to the extent that it had to lay off staff. Then these same people turn around and claim that Sunday shopping would provide extra jobs. What these people do not seem to realize is that Sunday shopping will not give them a competitive edge; they will still have to compete with other, more successful businesses on the same terms as before.

As a retail worker, I feel that my quality of life is being threatened. We work hard for the consumer. Indeed, we form part of the consumer body. I

can see no reason why I should be deprived of 52 leisure days, plus "public holidays." Note that I put that last term in quotation marks, because with Sunday shopping, retail workers will be excluded from the public, simply because some politicians feel it will gain them some votes. Those same politicians should be advised that retail workers comprise about 12 per cent of the total workforce. That percentage is further extended by family and friends, and it is that group that will make a difference to a politician's future come next election.

If, despite our best efforts, Sunday shopping becomes a reality, we small businesspeople will have to adapt as best we can. We will remain in business, but I can assure those who will be responsible that we will put them out of business.

Mr. Chairman: Thank you, very much. There are 7 minutes and 40 seconds per caucus. Mrs. Cunningham.

Mrs. Cunningham: Thank you very much, Mr. Gork, for a very interesting presentation. We are not always fortunate enough to have small businesspeople like yourself come before this committee, so we thank you very much.

You can imagine our dilemma. As the Progressive Conservative members of this committee, my colleague and I are quite frustrated as to what kind of emphasis we can put on our concerns in order to sway this large Liberal majority. In fact, the citizens of Ontario do not want extended Sunday shopping. We are trying to do what we can and we will be going into a clause-by-clause soon, in another week.

I am wondering why you are so concerned about this bill. Is it because you feel that in fact what people call the domino effect will take place, that if one store opens another store will open? You have certainly made it very clear that you are very much concerned about losing that common pause day, so I wonder if you will take a moment to explain how this legislation will affect you.

Mr. Gork: The way I see it, this legislation is intended to move responsibility for regulating retail holidays to local authorities, whether it be Metro council or the municipal councils. In my opinion, it is far more difficult for a local council to resist pressure from certain big retailers and certain businesspeople who do want to stay open Sundays, particularly if a neighbouring jurisdiction is going to choose to be open. I can think of an example of border towns, Sault Ste. Marie and Niagara, where I can very well understand businesspeople want to stay open in those areas, because if they are not open people simply go across the border to the United States. In a similar fashion, you would have neighbouring towns electing to stay open for exactly the same reason.

Mrs. Cunningham: We on this side of the committee certainly agree with you, but you will have to do more convincing of our colleagues on the other side.

Mr. Cureatz: If I might continue, how many are on your staff?

Mr. Gork: In addition to myself, I have a staff of four full-time and three part-time, plus my children come in and help on a Saturday morning.

Mr. Cureatz: There has been particular concern, I know, for all

employees but more particularly for part-time help. There has been increasing evidence, and people such as yourself appearing before the committee have indicated that part-time help may be put in that unfavourable position or be given various alternatives, more particularly to manoeuvre them into the position of working on Sunday. Can you comment on that?

Mr. Gork: Should Sunday shopping become a reality—I speak for myself—I personally would try to avoid putting pressure on an employee. I find that a coerced employee is a bad employee. On the other hand, I would find it very hard to resist the temptation to consider any possible candidate for employment on the basis of whether he or she would be prepared to work Sundays.

Mr. Cureatz: To clear my mind, are you saying in terms of some future date that if Sunday shopping were a reality, you would have to seriously look at whether those making application would work Sunday?

Mr. Gork: Exactly.

Mr. Cureatz: The companion legislation, Bill 114, is supposed to be supportive of individuals, allowing them the right by law of not working on Sundays. I do not know if you have had the opportunity of looking at that, have you?

Mr. Gork: I have looked at it, albeit only cursorily. I cannot see, personally, how that law can be effectively enforced.

Mr. Cureatz: You are familiar with what my colleague indicated about the domino effect, the possibility of a municipality opening up on Sunday where, as a result, an adjoining municipality would no doubt open up. I do not know if you have seen today's paper but obviously, from the Toronto Star, the Premier (Mr. Peterson) and the Solicitor General (Mrs. Smith) are quite adamant about the option, the major aspect of the legislation about which the opposition parties are concerned: Sunday options will remain as part of the bill.

You are looking as if you are not clear on my statement.

Mr. Gork: No.

Mr. Cureatz: The legislation is indicating that the municipalities will have the opportunity of deciding whether there will be Sunday shopping within their jurisdictions. We are debating that the province should take control of that alternative and not the municipalities. The Premier has said this morning, through Mr. Kanter, the parliamentary assistant to the Solicitor General, that that is not going to alter. That will not be changed in the bill; the municipality having the local option is steadfast. With that in mind, are you feeling a little frustrated?

Mr. Gork: Yes, because it is that very portion of the bill we are fighting. The whole intent of this presentation is to fight that particular part of the legislation. Of course I feel that jurisdiction should remain with the province.

Mr. Philip: Mr. Kanter here has said there are not enough real people appearing before the committee. Are you a real person?

Mr. Kanter: Mr. Chairman, with respect, Mr. Philip knows what I said.

Mr. Philip: I know what the Star said you said.. If Mr. Kanter has an objection to what the Star prints, of course he can take whatever legal action he wishes, but I am simply reiterating what the Star said: "There are not enough real people out there appearing." I am asking you, sir, are you and your employees real people? You look pretty real to me.

Mr. Gork: We would like to think we are.

Mr. Philip: I am sure you have real emotions. Did you believe the Premier when he said during the election that he was in favour of the principle of a common pause day and in favour of the select committee report, the all-party committee which the member for London South (Mrs. Smith), the now Solicitor General, was on and signed, which said it believed in the principle of a common pause day? Did you believe him at the time?

1020

Mr. Gork: At the time, his statement certainly did put a lot of my fears to rest.

Mr. Philip: Do you feel he misled you?

Mr. Gork: Yes.

Mr. Philip: I want to ask you some questions about your own business. Are you located in a mall?

Mr. Gork: No.

Mr. Philip: You are not. You are in a downtown area?

Mr. Gork: It is the downtown strip.

Mr. Philip: Is there a business improvement association or—

Mr. Gork: We did make an attempt to open one up, but we received a certain amount of opposition from other business people.

Mr. Philip: Do you feel the trend here would be the same trend which seems to have taken place in other jurisdictions in the west which use the municipal option?

Mr. Gork: Oh, yes.

Mr. Philip: That there would be a movement of business away from community types of businesses and downtown businessmen towards shopping centres?

Mr. Gork: I am not concerned about the movement to shopping centres per se. I feel my business can survive pretty well exactly where it is in the strip mall. I feel my business provides a very valuable service to the community it is situated in, else I would not be in business. As to the concern about the effect being similar to the west, I think it would be more pronounced in Ontario because of our much larger population and greater affluence.

Mr. Philip: What inventory would you carry in your store?

Mr. Gork: About \$250,000.

Mr. Philip: I do not mean in terms of dollars, but in terms of numbers of items.

Mr. Gork: Excuse me a moment. I will just ask one of my colleagues. About 30,000 items.

Mr. Philip: You said you have four full-time employees. Would that include yourself?

Mr. Gork: No, plus myself. We could badly do with a fifth.

Mr. Philip: Would these employees be fairly long-term employees?

Mr. Gork: We try as best we can.

Mr. Philip: Is it fair to say that in a business like yours, people come in and buy not just a product but also advice and that, therefore, you could not be like the Bay which might hire someone and with a quick training program on the cash register teach them how to put items from a rack through a cash and into a bag?

Mr. Gork: I would say you hit the nail on the head.

Mr. Philip: Therefore, would you agree that you and your family are going to have to work on Sundays whether you like it or not, that you cannot simply hire—

Mr. Gork: I am afraid so, yes.

Mr. Philip: We have had various estimates from different people as to how much extra it would cost as a result of this legislation. Do you have any idea of whether this will boost your operating costs and, if so, by how much?

Mr. Gork: I do not have an exact number. All I know is that, regardless of the experience in California, the primary evidence appears to be that the amount of business we do in six days now will simply be split over seven.

Mr. Philip: There is a limit to how many screws and bolts I can use in my house or even how many sheets of wallpaper or whatever.

Mr. Gork: Precisely, to the extent that much of the business we normally do on a Monday and Tuesday or possibly on a Friday could shift to a Sunday. I would imagine that some proponents have said, "Fine, take your day off on a Monday," but as I have pointed out in my presentation, having a day off is not exactly the same as having the day and spending it in common with one's friends who have the opportunity to take the Sunday off.

Mr. Philip: We had a very dynamic presentation by a Roman Catholic priest who works on Sundays. He was telling us how it affected his family life. He gets Monday off and the only people he has to have any kind of recreation with are ministers and priests. As long as it is not raining, he

can go to the golf course, but there is not an awful lot else he can do. He misses out on family dinners and all the other things. I imagine that you would be in the same boat if you are forced by this legislation to work.

You mentioned the US. Would you agree, and I am not being chauvinistic, that Canada does have a different culture from that of the Americans?

I say this as someone who has relatives in the United States and who visits them and loves them very much. That difference is worth preserving. Is this just one more step towards continentalism or making us just another rubber stamp, another facsimile of the American system?

Mr. Gork: With the very greatest respect to the United States, and I also have close relatives in the United States, I agree with you. I feel in many respects that we are a far more civilized society than the United States is.

At the beginning of my statement, my point about living in the greatest city in the greatest province in the greatest country is strictly from the heart. Yes, definitely. If we had to get the seven-day-a-week business, simply chasing the buck, it would erode us. It erodes our civilization a little bit—our civility, if you will.

Mr. Philip: David Peterson said that Bob Rae and indeed Andy Brandt should come into the 20th century and live up to the realities of modern society. Do you consider Germany and some of the western European, highly sophisticated technical societies to be modern societies? If you look at their way of life, do you think that perhaps they may be a little bit more civilized than the kind of society David Peterson seems to think of as modern?

Mr. Gork: Yes.

Ms. Hart: I can personally attest to the fact that your business is one that gives out good advice since I have been shopping there for many years and have sought advice on nails, paint and all those sorts of things from yourself.

Mr. Philip: Are you located on Lakeshore now?

Ms. Hart: No, on Bayview. There a couple of things I want to explore with you. First of all, you were asked a question about a mall. I was trying to think what the nearest mall would be. Would that be Bayview Village Shopping Centre? It is a fair distance away.

Mr. Gork: Bayview Village is quite a fair bit away. There are a couple of malls opening up closer to me.

Ms. Hart: That is news to me. The clientele in a mall is quite different from the clientele you get on Bayview, which is kind of a walking street where people come regularly to shop. Would that be a fair assessment?

Mr. Gork: No, I would disagree. Certainly, as far as a hardware store is concerned, with reference to my own hardware store, we are, as you say, as much consultants as business people. I will hark back to my experience in California again where I looked through the Yellow Pages at the hardware stores over there and to a single store where they made a very big play of the fact that they were open on Sundays.

Ms. Hart: I guess what I am aiming at is the advice part of your business. When you walk into your store, particularly on a Saturday morning—I have seen your kids grow up—everybody who is working there is dispensing advice. There is not just somebody behind the cash.

Mr. Gork: Correct.

Ms. Hart: That gives you a different kind of clientele, I would think, than just a place where you run into buy your nails and run out again.

Mr. Gork: Sure.

Ms. Hart: You mentioned that you did not think the malls were big competition for you. Where do you see your competition coming from?

Mr. Gork: If you will, my competition does come from a mall to an extent as well. There is the same hardware business in a mall that comes from the hardware store up the road. It comes from the Shoppers Drug Mart next door to me.

Ms. Hart: Which is open on Sunday?

Mr. Gork: Correct.

Ms. Hart: Let's talk about that a little bit. You said you were concerned about moving the responsibility for regulating retail hours to the local authorities. You probably know that six days a week the regulation for retail store hours right now reposes with the local authorities. It is just the seventh that does not.

In the malls, you say there are hardware stores that are in competition with you to one degree or another. They are very often open until 9:30 every night of the week or nine, or certainly longer hours than you are on Bayview.

1030

Mr. Gork: We are open until nine on Thursdays and Fridays, anyway.

Ms. Hart: But not every day of the week.

Mr. Gork: Sure.

Ms. Hart: Yet you are able to do that. You can be open until nine every day of the week if you choose.

Mr. Gork: Yes. I am able to open till nine every day of the week if I choose. I object strongly to the notion that if I wanted to safeguard my lifestyle, I would have to give up a potential chunk of my business to my competition, which is, after all, why business people do want to stay open on a Sunday. That is the reason for the pressure for this legislation. I would strongly resent that I would be expected—not expected; it is an implication of expectation really—to lose the potential of my revenue simply because the store up the road was allowed to open and it chose to open, irrespective of whether or not it has a superior business to mine. I can hold my own with any other hardware store, or a Shoppers Drug Mart, for that matter.

Ms. Hart: As you do right now, because you are not open all the hours that you could be.

Mr. Gork: Precisely.

Ms. Hart: You have decided, for business and personal reasons, that these are the hours you want to be open.

Mr. Gork: Correct.

Ms. Hart: You talked about the pressure for this legislation. Let's talk a little bit about that. Do you recall last Boxing Day?

Mr. Gork: Yes.

Ms. Hart: There was quite a bit of confusion in the marketplace about when Boxing Day was, and that really led to some of the amendments to this act. Also, there was a number of other complaints from a wide variety of people about the enforcement of the current law, the Retail Business Holidays Act. The penalties were not high enough; you could not stop a business immediately from opening on Sunday by having injunction powers to do that. That is what has led to these proposals essentially tightening up the act as it was last year. The pressure has not been just from retailers who, as you say, are not that successful. There has been a wide pressure to tighten up the act and make it work better than it did before.

Mr. Gork: As you say, wide pressure to tighten up the act.

Ms. Hart: Yes. The framework of this act, as you know, because I am sure you have read it, is that everything will be closed unless the municipality takes a step by passing a bylaw to open it. East York, and you are in East York, has clearly said it is not going to take that step.

Mr. Gork: I agree with the spirit of the wording. What I disagree with is the notion of shifting the responsibility to local authority.

Ms. Hart: It is not really a shift in the full sense, because right now, they regulate six days a week, but we have got into that.

One other thing I want to talk to you about is tourist exemption. This is a problem we have right at the moment. The local municipality can designate whatever it likes as a tourist exemption, and we have some examples in Metropolitan Toronto, Harbourfront and Chinatown, and the flea market in Oshawa-Pickering, just to name a few. Do you see a need for exemptions like that, businesses like that to be open on Sunday to service the tourist industry?

Mr. Gork: Yes, there is a need.

Ms. Hart: It is difficult to define tourist business. The Eaton Centre, I think you would probably agree, is a big tourist draw, yet it has not been designated a tourist exemption.

Mr. Gork: You are getting into a sort of parallel argument that I am trying to make regarding the domino effect.

Ms. Hart: Please continue.

Mr. Gork: Having said that, yes, there is a need for certain businesses to stay open to cater to the tourist trade, and there are certain whole towns that have opened, calling themselves a tourist attraction.

Ms. Hart: Including Home Hardware's.

Mr. Gork: Yes, there is no question, and there are a couple of my fellow dealers who certainly disagree with me. I feel there is a place in current regulation, again, for the province, inasmuch as the province is attempting to shift the total responsibility to local authority for that legislation; in the same vein, the province could assume that same responsibility for designating tourist areas, if you will.

Ms. Hart: Why is it that you think the province might be able to do that better than the local municipality, which has local needs in mind?

Mr. Chairman: We are out of time. Is there unanimous consent that she continue? All right, fine.

Mr. Gork: Could you repeat that question? Sorry.

Ms. Hart: Why do you think the province, or some part of the government sitting here in Queen's Park, would be better able to designate a tourist area than a local municipality, Timiskaming or Kenora or some place outside of Toronto, where they complain they never see legislators?

Mr. Gork: This government, hopefully, comprises members from different communities right across Ontario.

Ms. Hart: Yes.

Mr. Gork: I have stated that the provincial government is better able to withstand pressure from business interests to allow seven-day opening. In the same vein, members from those communities affected could very easily represent the interests of their communities at a committee that would designate any particular area a tourist area for any reason.

Ms. Hart: It is interesting that the businesses, the mall owners, have said to us they prefer to have to lobby only the province rather than every single municipality.

Mr. Chairman: Thank you, Mr. Gork. We appreciate your coming forward and sharing your views with us. It is helpful to the committee.

Mr. Chairman: The next delegation is the Lutheran Council in Canada, Eric Jensen. Would you be good enough to have a seat, Mr. Jensen? There is a microphone in front of you. That is so that you can be recorded on Hansard. You have 30 minutes. It is your time and it is your time alone. You can use all of that time, if you wish, to address us. That is assuming you get the opportunity and there are not cross-interjections.

If you use all that time, that is your prerogative. If there is time left over, I will attempt to allocate it equally among the three parties that are represented on this committee to ask questions, make statements and what have you. If you would like to proceed, we are ready to hear from you.

TORONTO LUTHERAN COUNCIL

Mr. Jensen: The Toronto Lutheran Council thanks you for the opportunity to be here. Although we probably cannot bring any fresh approach to what you have already heard, we still welcome the opportunity.

As just as a little personal background on myself, I have lived in Ontario since 1942. I am married and am a father and a grandfather. I have worked shift work for 39 years. In all that time, I have never had any problem shopping for groceries, clothing or whatever we needed as a family.

Having breakfast this morning, and reading the Toronto Star, I was shocked to see this article about Sunday shopping and the fact that no matter how the in-depth study that the province is doing turns out, this legislation would seem to be going through.

Then, driving down here this morning, I was listening to the news. I did not catch the MPP's name, but—

Mr. Philip: It is Mr. Kanter. He is sitting right over there.

Mr. Jensen: He conducted a survey in North York. The result of the survey was that 73 per cent of North Yorkers did not want Sunday shopping and 24 per cent were in favour of it.

As a member of the Lutheran church, what I and what most Lutherans and most religious organizations are concerned about still goes back to the quality of life, because the issue of open Sunday shopping is one that affects every person in Ontario. We are deeply concerned about the effect of wide-open Sunday shopping on the quality of life of our families. If we are to protect the interests of families as the primary building blocks of society, we must take steps to avoid increasing the pressures that fragment families. Wide-open Sunday shopping would give further emphasis to the illusionary philosophy that material prosperity alone will bring about happiness and wellbeing.

1040

The social fabric of communities depends on much more than buying and selling. People are more than simply economic entities. Each person is complex, with emotional, physical, social and spiritual dimensions. People are not only consumers; they are also husbands, wives, parents, members of families, amateur athletes, musicians, artists, gardeners and many other things. Our definition of a person must go beyond the economic and we must recognize that we are called to live with each other in a rich diversity of relationships. A community's social organization depends on the capacity of its members to work together in leisure time for the common good.

Historically in Canada, Sunday has been considered to be the family day, a day to touch basic human needs as rest, relaxation, recreation and companionship and, for many, a day of worship. This common pause day helps people keep the rest of the week in perspective and it has a restorative effect on the human spirit.

Such a common day of rest for the family and other individuals is built on the freedom from the usual demands made by the marketplace. It frees the family to be together, to relax and to relate to one another and to neighbours, and to visit the sick and the lonely. It strengthens family and social bonds.

Open Sunday shopping would adversely affect the quality of life of the 15 per cent to 20 per cent who work directly in the retail trade. With the ripple effect, it would also touch those involved in basic civil services such as transit, police and hospital staffing, the supply and service industry, day care provision and many other areas.

The facts are obvious: The majority of school-aged children have mothers who work; mothers of pre-school children are the fastest growing group in the Canadian job market; single-parent families are growing in number; and over half of all retail workers are women. It is becoming more difficult for family members to find shared time together. If the common pause day is eliminated, it will be almost impossible.

We cannot overlook the impact of the loss of a common pause day on children. If their need for relaxed time with their parents and grandparents is ignored, the result will be children who will grow up with a diminished sense of family life and their importance to their parents and of bonding and communication with their parents.

Protecting a common pause day is part of the pursuit of a great justice in the major public policies that affect families. To do justice to the complex nature of individuals in society, we must ensure that time and space are available for a variety of social, spiritual and cultural expressions in public and private life for groups as well as for individuals.

We believe that the measure of our morality as a people is reflected in our society's treatment of the most vulnerable. It is for this reason we have reviewed arguments on this issue from the standpoint of the vulnerable, particularly families at the lower end of the income scale. As religious communities, we have always been in favour of social policies that place priority on the needs of the poor. We believe that principle is consistent with the Canadian tradition of pursuing the common good and increasing the number of those who benefit from it.

The primary concern of government in this matter should be the protection of the most vulnerable, those whose economic need, social situation or family status could turn them into a class of Sunday workers serving the convenience of those who are fortunate enough to have the day off.

We believe that participation within society is one of the primary values at risk within the world today. We join in saying that the society we must work for is one that is just, participatory and sustainable. We believe that wide-open Sunday shopping will threaten this national ideal of social participation by the largest possible number of Canadians.

We are deeply concerned about the effect that wide-open Sunday shopping would have on family life. We call upon the government of Ontario to ensure that the wellbeing of all our citizens is protected through the retention of a common pause day.

Priority must be given to individuals, families and communities over the pursuit of perceived convenience and disproportionate economic gain.

I have a few points here that are numbered.

1. In January 1986, the Progressive Conservative task force on extended shopping hours consulted with businesses, labour and churches, while newspapers and radio stations throughout the province conducted surveys resulting in a lack of support for Sunday shopping. All three political parties agreed that there was no need for Sunday shopping.

2. In December 1986, the Supreme Court of Canada, by a six-to-one margin, concluded that the Ontario Retail Business Holidays Act is a valid law under the Canadian Constitution.

3. So far, only one out of 20 briefs presented before this committee supports Sunday shopping.

4. From large corporations like General Motors to the average small businessman, people are against Sunday shopping.

5. Sunday shopping will increase the number of latchkey children, creating more problems for our already overburdened social workers.

6. Our government is discriminating against the retail store workers. If they feel it is necessary to work Sundays to serve the public, so then should Queen's Park offices, municipal offices, liquor and beer stores, etc., be open Sundays.

7. The majority of day care facilities operate from Monday to Friday. Most churches provide the largest number of day care spaces and would not be able to do so on Sunday. So where does that leave Sunday day care availability?

8. Somewhere around August 18 of this year, Premier Peterson stated that there were no more funds available for day care.

9. Retail store owners are very hard pressed to find competent staff for the normal workweek, let alone to find some for Sunday work.

10. A by-election in the London area defeated the Liberal MPP as a response against Sunday shopping.

Interjections.

Mr. Chairman: Go ahead, Mr. Jensen. Just do not pay any attention to the comments.

Mr. Jensen: They have been very good so far. I do not mind—

Mrs. Cunningham: There's a bigger one if you pass this one, Bob. A few more of your guys can kiss their seats goodbye.

Mr. Chairman: We invite witnesses here to testify before us. They come voluntarily, and in the middle of their presentations to us, we start bantering back and forth. I do not think that is fair to the witnesses.

Go ahead, Mr. Jensen.

Mr. Ballinger: It is meant as no disrespect. It is just part of the process.

Mr. Chairman: I realize that, but I still think that, as a matter of courtesy, we should not do that.

Mr. Ballinger: I am sure Mr. Jensen understands it is part of the process.

Mr. Chairman: Go ahead, Mr. Jensen.

Mr. Jensen: As I said, you have been very good so far.

11. Retail business profits will not increase due to Sunday shopping, as the consumer has a limited amount to spend.

12. Premier Peterson states he believes in a common pause day. In Canada, for many decades, that common pause day is Sunday.

13. Alberta citizens are in the process of reversing Sunday shopping during their next municipal elections when the issue will be voted on.

14. Ron Kanter has been quoted as saying that he had not heard from the ordinary man on the street. I believe the majority of them are working. If he felt that strongly, he could have arranged some evening meetings.

15. The only fair way to deal with the issue is to let the citizens of Ontario vote. Besides voting whether you are in favour of Sunday shopping, yes or no, there should be the question "Do you want to work on Sunday, yes or no?"

That is my conclusion, except just to add one other thing. I have been following these committee meetings and the most vocal person, I believe, you have had before you was Mr. Agnew, vice-president of the Hudson's Bay company, who said that no matter what you did, he would open Sundays. He would invite being prosecuted and have it processed through the courts. That does not speak very highly of the Bay as a corporate citizen because now he is out telling the city of Saskatoon, "You'd better change your bylaws, because if you don't, we will pull all our stores out." Anyway, thank you very much.

1050

Mr. Chairman: Thank you very much, Mr. Jensen. We have approximately 12 minutes, so four minutes a caucus.

Mr. Philip: Thank you for an interesting brief. It is not just Alberta now which is recognizing that a mistake was made but also New Brunswick, which you probably know is reversing the legislation, identical legislation to what the Liberals now are using their majority to ram through on the people of Ontario against their will.

I want to ask you this question. I am sure you have had some contacts with some of your Lutheran and other Christian denominations and other church groups in other provinces where, as in British Columbia, the municipal option has now, through the domino effect, ended up with wide-open Sunday shopping in 54 municipalities, the largest ones.

Have you had any feedback from some of your congregations out there? What has the effect been on their family life and on the kinds of things you are concerned about in your brief?

Mr. Jensen: Yes, we have had feedback from British Columbia. Certainly the Lutherans out there are not shopping on Sundays, but a lot of them are affected because some of them do have to work on the Sunday and this disrupts the quality of their family life. As has been pointed out before, if you are working on Sunday and you have another day off during the week, who else in the family do you have around you to share this time with? Your children are at school and the wife is probably working. It definitely does affect family life.

Mr. Philip: We have had ministers and priests point out that very fact, because they work on Sundays of necessity, and it is very difficult.

One of the things the Lutheran Church has been active in along with a number of other churches has been food banks here in the city. Some of the

church leaders have said that they consider it somewhat immoral but necessary that in a rich society they are still feeding people through food banks.

We are told by the various merchant groups that Sunday shopping will increase the cost of food. Do you think it is somewhat ironic, at a time when we are feeding people with food banks, that we should at the same time be introducing legislation that would increase the price of food?

Mr. Jensen: Yes, it is very ironic indeed. I agree. You cannot help but see that it would increase the cost of all products that were sold on a Sunday.

Mr. Philip: Do you consider it more than ironic but also immoral?

Mr. Jensen: It is immoral, yes. The churches feel it is not a religious issue but a moral issue, having to work on a Sunday.

Mr. Philip: I am sure that in your congregations, as in the church I go to, you have many single parents. Many of them are involved in the retail industry in Rexdale, which I represent, and involved as members of my church. The children have no parent home on Saturday and now they will have no parent home on Sunday.

You have mentioned the extra costs of day care and so forth, but even if we could afford those extra day care costs, is there not some time in which a parent, regardless of some of the excellent day care facilities we have, should be available to the children on at least one of the days that they are not in an institution, school or some other organized activity?

Mr. Jensen: Day care will never replace personal contact with a parent.

Mrs. Cunningham: Thank you very much, Mr. Jensen. I am Diane Cunningham from London North, and certainly I agree with your observation, as others do, that the Sunday shopping issue had a great deal to do with the success of our campaign.

Mr. Ballinger: Many do not.

Mrs. Cunningham: Obviously Mr. Ballinger does not agree, but if he had been out there watching the excitement in London, I think he would have noticed it.

Interjections.

Mrs. Cunningham: Mr. Chairman, it is really hard to concentrate on the questions.

Mr. Chairman: I agree. Ignore the interjections. They are out of order.

Mrs. Cunningham: I do not want to say anything because I banter back and forth from time to time, too.

I have to tell you, when you came this morning and said you were shocked about the article in the Star, I was too, and also very disappointed. I will tell you why.

You put your name forth and you stand for election and you go through all the things that really means, and then you think you are going to be part of what one would call a democratic process, and you really believe in public input. In fact, one of the statements being made by the Liberals on this committee or recommendations they are making to whoever is calling the shots in this place is that there should be public hearings: pass the buck to the municipalities and then have some public hearings.

I hope the municipalities are more sensitive to the public hearings than the members of this committee have been and certainly the Premier (Mr. Peterson), because for these kinds of comments to be made during the public hearings, before they are concluded, with the odds against the process, I am more concerned about democracy now than I am about Sunday shopping. Would you like to respond to that statement?

Mr. Jensen: I agree. I figured we were living in a democracy, too, but it would not appear to be so if the account in the Star was correct this morning in saying it is already a foregone conclusion that we are going to have Sunday shopping.

Mrs. Cunningham: I certainly would not want Mr. Kanter's job as the frontrunner for whoever is calling the shots on this one because it is obvious. For three years in a row we have been out asking the public what they want. You heard the former presenter today talking about the quality of life in his travels. I am so frustrated, I cannot even ask you a decent question because I do not know whether the answer will make a difference.

Mr. Cureatz: If we have a moment left, let me say that part of the frustration— We have had groups of varied description before us, big business, small business, and if you look at today's agenda, another cross-section of concerned people across Ontario. You made mention of Mr. Agnew of the Bay stores. Can you in your own mind try to determine who wants this legislation?

Actually, I have to say that the Premier, who I have worked with for a number of years—I have had some tenure here at the Legislature—is not such a bad fellow, but why he is pushing this I do not know. It boggles the mind.

Mr. Jensen: I agree. It does boggle the mind. It makes absolutely no sense at all, especially when the consensus is that people do not want Sunday shopping. They love their family life. They want to protect it. They want to fight for it. There is no rhyme or reason for it at all.

Mr. Cureatz: The Liberals are indicating that we are not hearing from those who are in the workplace. Do you feel comfortable about that? How big is the congregation you are associated with, and have you had a feel from them about their concerns?

Mr. Jensen: We have about 250 members in the congregation, and we are a very diversified congregation in the fact that there are college professors, schoolteachers, factory workers and dietitians, and there is no way. We believe too much in the family life to see it get eroded away by Sunday shopping.

Mr. Ballinger: Mr. Jensen, I just wanted to welcome you. I was interested in your original comment about being a layperson. I know how tough it is to come before anykind of committee, whether it be municipal or legislative. There is a fair amount of exchanging of viewpoints across the

floor. It was certainly not meant as any disrespect towards you.

Mr. Jensen: No offence taken.

Mr. Ballinger: It is a fact of the process. Can I ask you where you live?

Mr. Jensen: North York.

Mr. Ballinger: So you live within Metropolitan Toronto.

Mr. Jensen: Yes.

Mr. Ballinger: I notice that your brief is based on the premise of wide-open Sunday shopping. As a member of the government side, I would like to say to you that this bill is more than just wide-open Sunday shopping. The opposition in their wisdom—and, of course, everyone has a job to do here and everyone has a role to play—has been doing that fairly effectively, to try to promote the myth of wide-open Sunday shopping. Have you actually read the bill?

Mr. Jensen: Yes.

1100

Mr. Ballinger: Then you would be aware that the decision-making process as it relates to local option is at the regional level and not at the local level.

Mr. Jensen: Yes.

Mr. Ballinger: I think that point in the bill, quite honestly, takes away, and will take away, a lot of the fears that you have expressed in your brief. Again, I understand the position of the Lutheran church, and certainly through many of the municipalities that we have been travelling in the process, their comments and concerns about the breakup of family life are the same.

I think the unfortunate thing is that everyone who comes before us makes a presentation based on the premise that Bill 113 is going to promote wide-open Sunday shopping, and I would like to say to you, as a family man and as a businessman, that I do not believe that to be true at all.

I guess in question-and-answer and discussion, one of the problems that I find, myself, as a member of the committee, is that no one really wants to talk about the bill. Most people just want to talk in opposition of Sunday shopping. This bill is much more than that, but we just do not seem to be able to get into a dialogue about the purpose of Bill 113. We, as a government, more than any other government, have taken that issue by the horns and have put it properly before the public and said: "This bill has had second reading. It's not at all what the opposition says, that this is a facade, a sham. The bill has had second reading." We are currently, after second reading, saying to Ontario: "Here are the contents of Bill 113. Let's discuss it."

Mr. Jensen: What is hard to understand is that in 1986, when a task force was formed to study this and when it found out that the majority of the people were not for it, the parties then, including the Liberal Party, said yes, they could see that there was no need for it, and in a span of a year or so, how it can be reversed. All of a sudden, now we need Sunday shopping. This

does not make sense.

Mr. Ballinger: Excuse me, I am sorry. I believe—this is a very important point to me as an individual—this bill is not a promoter of Sunday shopping. This bill takes that tourist exemption, which over 100 municipalities in Ontario have used to satisfy their own local needs, and all we have said is, "Listen, here is the process within the provincial framework." We are not going to use the term "tourist exemption," because it is one of the toughest things. We can debate for ever the definition of a tourist, but quite honestly, local option has always been in the hands of the local municipality.

Mr. Chairman: There are 30 seconds left. I do not know whether you can get a question and answer in that time.

Mr. Chiarelli: I will try, very briefly. I did not count, but I think 10 or 12 times you used the term "wide-open Sunday shopping" in your submission. I think it is important for all of us to realize that the opposition survives sometimes by creating apprehension or fear among the electorate. In this particular instance, I think it has been very good at it.

You are also aware of the fact that "wide-open Sunday shopping," as a term, is not used in this bill. It is the local option that people are concerned about.

We had a group before us yesterday, Tourism Ontario Inc., that also had fear. It represented a very large coalition of people in the tourism industry, and its fear was that this legislation would close them down; that the local municipalities, such as North York, which has expressed its opinion, Ottawa and London, would in fact close them down. There is the fear on the other side that this bill is not going to make things wide open, but it is going to close things down. I think we have to put some perspective into the issue and we have to look at the fear factor when people talk in terms of wide-open Sunday shopping.

Mr. Chairman: I would like to give you an opportunity to say something in reply, but time has passed. Thank you very much, Mr. Jensen. We appreciate your coming forward and sharing your views with the committee.

Mr. Jensen: Thank you.

Mr. Chairman: The next group is Loblaws Supermarkets Ltd., Andrew Faas, senior vice-president, administration, for Central Canada Grocers Inc. Welcome. If you would like to have a seat, you have 30 minutes. It is your time, as I have explained to the other presenters. You can use all of that time, if you wish, for your presentation. All members have a copy of your written brief in hand. If there is time left over, there will be questions from members of the committee. That is their time to ask questions.

LOBLAWS SUPERMARKETS LTD.

Mr. Faas: I understand. I should first describe Central Canada Grocers. The company that I work for is the parent company to Loblaws Supermarkets Ltd. A number of our subsidiary companies have already made presentations to this committee.

Before I begin my presentation, I should, on a personal note, thank you for giving me the opportunity to appear. I have been with the Loblaw

organization for roughly 14 years. I have been spokesman on behalf of the company for those 14 years with respect to this issue.

I made a presentation to the Conservative task force on this issue. I was very happy to see the leader of that party, Larry Grossman, who had, I believe, a very set view with respect to the issue, listen to the representations made. The Conservative Party at that time was, I believe, influenced by the representations made.

I was also very pleased to make a presentation to the all-party committee in 1986. I would have hoped at that time that they would similarly have listened to the representations made. I believe that a number of members on that committee were swayed.

I am very disappointed with respect to what I am hearing, not just what was in the Toronto Star this morning, but other comments that have been made over the past number of weeks with respect to the impact that representations will have relative to the government's reviewing its position with respect to this legislation.

I agree with the comments made earlier. I think it is a much broader issue. It is not just the Sunday shopping issue. It is a question as to whether or not this process is meaningful. As a private citizen, I am concerned about that.

With respect to my formal presentation, Loblaw's Supermarkets operates 93 stores in Ontario. We have roughly 7,000 people. We have always supported the regulation of Sunday and holiday retailing, as it has been and is our preference to remain closed on Sundays. In recent years we have found ourselves in an uncompetitive position as a result of competitors opening in violation of the act in many of our trading areas.

The growing number of operations which use loopholes in the existing legislation to open and sell food on Sunday and the lack of enforcement causes us great concern because of the unfair competitive advantages they enjoy at an increasing rate.

We are finding that our customers who shop on a Sunday for products we sell can readily find other retailers who are open. Because of the nature of the current regulations and the manner of enforcement, a number of our competitors have fashioned their operations to exploit inequalities in the system.

The all-party committee report made recommendations to strengthen the legislation. We agree with and support their recommendations as they dealt with most of our concerns. We feel that with respect to Bill 113, exclusive of the local option, it answers most of the problems we face as it provides, in our view, fairness and equity.

We were very surprised with the government's announcement to give municipalities the responsibility of regulating shopping on Sundays and holidays. We do not understand or accept the government's rationale in introducing this part of the legislation.

We believe that the government should reverse its position with respect to the municipal option on the basis that inequities will be created where stores in the same trading area, but in different municipalities, could have an unfair competitive advantage, as we believe the domino effect will apply

and we will eventually have wide-open Sundays as a result.

1110

With respect to the question of wide-open Sundays, again, we would prefer wide-open Sundays versus the status quo and endorse Bill 113, without the municipal option, as we believe something needs to be done with the existing legislation. We therefore again suggest the government correct the inequities of the current legislation.

The proponents in favour of Sunday shopping expound at great length about hypothetical forecasts for increased sales, tourist dollars and job creation. It certainly sounds wonderful. However, we are somewhat mystified as to where this information is coming from and would strongly suggest that the proponents in favour of Sunday openings seek input from representatives of the retail business community.

Our experience with extended hours and opening additional evenings has proven that jobs are not created as a result, and we can categorically state that we do not anticipate any additional staff requirements in the event of Sunday openings. Rather, work schedules will simply be adjusted for existing employees to compensate for that extra day.

Individuals who favour Sunday openings advocate them because they are alleged to increase sales. Again, our experience with respect to opening additional evenings has shown that additional hours bring little or no extra business. They serve only to transfer the business from day shopping hours to the evenings, which results in higher operating costs and increased difficulty in meeting staffing requirements. Our experience has shown that from an operational perspective, there are no gains to be made by opening stores on Sunday.

Certainly those who open when their competitors are closed, can argue increased sales. As you are aware, many other businesses support our position for the regulation of Sunday and holiday retailing. This can be evidenced by the number of businesses making representation to this committee, the rosters of members of the People For Sunday Association for Canada, the Ontario Committee for the Regulation of Sunday and Holiday Retailing and submissions by the retail industry associations and the Coalition Against Open Sunday Shopping.

We also feel that the majority of citizens support the regulation of Sunday and holiday retailing. Recent polls are revealing that the majority support restricted sales on Sunday. Untold by the proponents of Sunday openings are the potential effects of Sunday store openings on retail employees and their families. We have sought input from our employees with respect to this issue and there is an overwhelming opposition to Sunday store hours.

If shopping hours are extended to include Sunday, there is no doubt that the employer-employee relationship could become strained because of the employee's obligation to family, friends and religious beliefs. Nowadays, it is common to find both parents in the family working; therefore, in most cases Sunday is the only day of the week which the family can share together.

For the above reasons, we strongly recommend that the government reverse its position with respect to the municipal option and implement the other provisions of Bill 113.

The question was raised a little earlier as to whether the people who are affected have been properly represented. I would refer you to what I believe to be the largest petition put forward, roughly a year ago. I believe there was something in the vicinity of 115 petition cards submitted by Terry O'Connor to the government, 115 against Sunday shopping and 2,000 in favour. I would suggest that is fair input.

I appreciate again the opportunity of appearing before this committee. I will be pleased to answer any questions you may have.

Mr. Chairman: Thank you, Mr. Faas. Mrs. Cunningham, we have approximately 21 minutes left, so seven minutes for each caucus.

Mr. Faas: I should correct that figure; sorry. It is 115,000 cards, a slight difference.

Mr. Chairman: I thought you had it reversed too, but I was not sure. That is right. Okay, Mrs. Cunningham, seven minutes.

Mrs. Cunningham: Earlier in the hearings we were hearing a lot in the questioning from my colleagues to people such as yourself, Loblaws, and that was: "Aren't you concerned about the fellow down the street who has the little grocery store? What will this do to you? Do you not have smaller stores that are open on Sundays now?" Maybe we can clear up that one.

Mr. Faas: As a corporate chain, we have no stores that are open on Sundays. We are not opposed to the smaller retailer, the convenience store retailer being open on Sunday. That was the original intent of the legislation. What we are concerned about are places like the drugstores, which are operating with the label "drugstore" and yet they are, in essence, grocery stores. We are concerned about that. We are also concerned about the larger grocery operations that are beyond the square footage suggested in the legislation opening up in violation of the legislation and enforcement not being all that effective.

Mrs. Cunningham: Of course, the reason we are all sitting here right now is because the Solicitor General (Mrs. Smith) stated they were not able to enforce the present legislation, but we have not seen where the bill has not been upheld in the courts. We just think they have not chosen to enforce the legislation in certain parts of the province and they have had very little support—in fact, a direct lack of support—from the government. That is the one reason we are here: enforceability. With due respect, I think the Liberals have tried to make the fines a little tighter and, in fact, have gone even further than fines, with injunctions. That part we have dealt with.

The other part about drugstores, we are looking at seriously. In fact, there was some good open discussion on the size of the drugstore and we are negotiating back and forth on that one from time to time, given the input we are getting from the witnesses. We are looking at that. I am not sure it is worth \$90,000 to the public of Ontario to be travelling around about fines and the size of drugstores, so I want to get back to your opening comments about process.

Mr. Chiarelli stated that the people in opposition—I think that is me—are creating apprehension and fear. I have to tell you that I did not even know what this issue was all about until I started knocking on doors in London. I knew what the government was planning on doing, but I had no idea this would be the response. I did not create the apprehension and fear, and I

am not even defensive about it. I could care less what they say.

The other point is, I think the people coming before us are the people who are really nervous about it. They are nervous about the quality of life and the fact they might have to work.

Mr. Faas: That would have been my comment; I think you have only to read the submissions made to you that indicate what would happen. You may get a disagreement in terms of whether the domino effect will happen. We believe it will, because a municipality that does open—and in businesses in a trading area right beside it—will cause the retailers in the municipalities that are not open to do a lot of squawking. It is a simple fact of life. There are lots of municipalities where trading areas overlap.

Mrs. Cunningham: I suppose the best example of that is when we kept stores open on Thursday and Friday nights in Ontario some 15 years ago when we were looking at evening opening hours; some of us who were young schoolgirls at the time used to work Friday nights, then Thursday nights and then Wednesday nights, just as schoolgirls, because of this domino effect. It is obvious it will take place.

Mr. Cureatz: I sincerely appreciate your attendance. As a Conservative who had the good opportunity of representing my constituents in Durham East, which is in the Bowmanville area, east of the city of Toronto, I had the chance of representing part of the city of Oshawa for almost 10 years. Time and time again, I would be criticized as being the Conservative representing big business. I can tell you that not once did the president of General Motors of Canada ever come out and knock on doors for me. That gave me great annoyance.

It gives me great pleasure to think that you, representing a substantial industry in Ontario, have come forward to the committee. Of course, this is being televised and there are a few people here, but there are a lot of people who watch this. I want to say publicly that I congratulate Loblaws for coming forward and making a stand, and you indicate some of the aspects and concerns you have, for instance, about quality of life. This is a nice area for the good corporate citizens coming forward and letting their names be heard.

There is another area of concern. That is, the Liberal administration time and time again has indicated that the tourism definition has some difficulty in it in terms of being able to label it properly and, as a result, that is why it is giving the municipalities the opportunity of deciding to have wide-open Sunday shopping or not.

1120

We have had many delegations before us who have indicated they would give assistance to the government in trying to draft the appropriate tourism definition that would satisfy, to the best possible degree, those people who are concerned about the definition across Ontario and those people who would be affected.

In terms of your position and Loblaws position, maybe you do have some stores that are open in a tourist area. Are you familiar with whether you do or not?

Mr. Faas: We do not have any stores that are open in tourist areas, no. We do operate in some areas that are defined as tourist areas and, for a

variety of reasons, have elected not to open.

Mr. Cureatz: That being one of the concerns, can you envision the possibility of this committee continuing, before the legislation is passed, to have greater input from those groups or individuals who have indicated that they would be of assistance to the definition of tourism?

Mr. Faas: Absolutely, and I would make a comment on that.

Mr. Cureatz: Please.

Mr. Faas: If the government were trying to establish a tax base for a tourist industry, I am sure that the minds would come together on it.

Mr. Cureatz: Thank you.

Mr. Chairman: Mr. Sola, seven minutes.

Mr. Sola: At the beginning of your brief, you state that it is your preference to remain closed on Sundays. Then on page 2, you say you would prefer wide-open Sundays versus the status quo. That seems to be a real indictment of the present legislation. Can you expand on that?

Mr. Faas: I think you have to read the brief in its entirety, without pulling out a couple of sections. Clearly, the status quo to us is not acceptable. The all-party committee looked at the concerns and, by and large, responded to them. I think Bill 113 does, by and large, respond to the concerns we have. But from our perspective, it is no longer tolerable for us to see the current legislation continue. The status quo is just not acceptable. We are seeing competitors open while we, as law-abiding citizens and companies, stay closed. That is the context in which that statement is made.

Mr. Sola: That is the exact same feeling that was expressed by your colleague in Windsor, where he phrased it almost identically in his brief.

At the bottom of the first page you say, "exclusive of the municipal option." Why are you in such fear of the municipal option?

Mr. Faas: Because we believe it will create the domino effect. We have a number of stores where trading areas overlap. One municipality could suggest that stores be closed and others could permit them to open, and that would create for us an uncontrolled competitive advantage. We believe that, eventually, municipalities that do not open or that elect not to open will be forced into opening, and it will lead to wide-open Sundays.

People can disagree with that, but we are stating that now. I guess you people have more to lose than we do, because somebody is going to be either right or wrong. We have less to lose, I guess, in terms of being right or wrong on it.

Mr. Sola: In relation to that domino effect, I think you stated to a question of my colleague across the floor that you operate stores in areas that are currently designated as tourist areas.

Mr. Faas: We do not currently, but that is not to suggest we would not in designated tourist areas.

Mr. Sola: You operate stores, but you are not open in those areas.

Mr. Faas: We are not open in those areas.

Mr. Sola: Does that not somehow contradict this domino theory? You have the opportunity to stay open right now. You have the same market forces pulling at you.

Mr. Faas: That is manageable because in all likelihood in those areas our direct competitors similarly do not open. If our competitors open, we in all likelihood will respond. Legally, the industry, if you will, has the right to be open. They elect not to, individually. If one does, the others will follow suit.

Mr. Sola: I do not see how that applies under the present tourist exemption if that same logic would not apply under the municipal option. If you choose not to open under the tourist exemption, why would you not choose not to open under the local option?

Mr. Faas: Because it would become totally unmanageable. We could not get the same kind of situation. We believe many would open. We are finding—it is ironic—in those tourist areas that competitors do not open, but in areas where we are legally not permitted to open, we are finding competitors who are open. It is primarily in larger municipal areas.

Mr. Sola: As you state in your brief, Bill 113 is rectifying quite a few of the problems you see in the present legislation with this tightening of loopholes. Would it not lead to your using the same rationale under the municipal option that you have used under the tourist exemption?

Mr. Faas: I believe, with respect to the municipal option, it will eventually lead to wide-open Sunday. Initially, I believe it will lead to some uncompetitive situations where trading areas overlap and it will lead eventually, in my opinion, to wide-open Sundays.

Mr. Sola: I have some more questions, but I think Mr. Chiarelli wanted—

Mr. Faas: I think you saw that a couple of years ago when some of the chains opened up on Sundays illegally. Until the government stepped in to tighten up the enforcement, everybody was ready to be open. We opened up as a last resort because the government at that time would not step in.

Mr. Chairman: One minute and 45 seconds.

Mr. Chiarelli: Mr. Faas, I appreciate your comments on the provincial framework and that you feel it addresses a lot of the inequities. I also appreciate your comment about wanting to drop the local option. We, as a government, disagree with you on the latter point. If I might comment in terms of the local option. Mr. Jensen from the Toronto Lutheran Council in his brief talked about "living with each other in a rich diversity of relationships." This province is a rich diversity of relationships. Mr. Cureatz from the other side talked about quality of life. The quality of life and the diversity of the relationships in this province really are very significant.

The government is trying to deal with that issue with the local option. I am sure you are aware of the fact that the local option basically exists today with the tourism exemption where Gananoque, Sault Ste. Marie, Byward

Market in Ottawa and Chinatown in Toronto can really look at their own local diversity and make decisions that affect them.

We have heard a lot of argument about being able to define tourism better. The select committee on retail store hours tried to do it, but could not do it. We are spending \$100,000 on this committee and we are still hearing, "Let's put some people together to decide it down the road some time."

Mr. Faas: My comment earlier was that if you were developing a tax base for tourism industry, I am sure you would come up with a—

Mr. Chiarelli: Please do. We would like your advice on that point because we have had very little advice on how to do that. What we are trying to do, really, is approach the diversity of this province in a way that makes sense.

Mr. Chairman: Thank you, Mr. Chiarelli. Thank you, Mr. Faas. I appreciate your—

Interjections.

Mr. Chairman: Oh, sorry. You are usually second. Sorry, Mr. Philip, seven minutes. You are quite right.

Mr. Philip: Mr. Chiarelli likes to use the example of Gananoque. I do not know whether it is his favourite town or what. I happen to like the town.

Mr. Sola: He has a cottage up there.

Mr. Philip: Would you agree with me that Gananoque is only open for using the tourist exemption for a very few months of the year, namely, the summer months and that that is quite different from the municipal option which would mean stores could be open every Sunday year-round? That is quite a difference.

Mr. Faas: I agree. I think where the tourist exemption ran into a lot of problems is municipalities declaring businesses as tourist areas. That is where they ran into problems, versus a town like Gananoque or a lot of our tourist towns in Ontario. We believe that is quite appropriate.

1130

Mr. Philip: You talked about the new bill and you also talked about the select committee report on retail store hours. On page 17 of that report it mentions: "A majority of committee members"—and that included Mrs. Smith, the now Solicitor General—"felt that it was appropriate to retain the current staffing restrictions as this was in keeping with support of a common pause day. It was felt that removing this restriction could open up potential 'loopholes' for the contravention of the legislation."

You talked about unfair competition in your brief. Would you agree that the select committee's conclusion, the conclusion of the now Solicitor General, in signing that brief is violated in this new legislation?

Mr. Faas: To some degree, yes.

Mr. Philip: In fact, this bill does open up more loopholes for

people to compete against you unfairly?

Mr. Faas: I take a look at Bill 113 and suggest that from our perspective, with the exclusion of the municipal option, it addresses most of what we are concerned about.

Mr. Philip: Would you agree that in removing the staffing restriction it allows for at least one other form of unfairness which did not exist in the previous bill in terms of competition against you?

Mr. Faas: Without the size restriction, we would have a problem. With the size restriction, we feel that would be somewhat manageable.

Mr. Philip: I am sure you are aware that the select committee recommended a size restriction as well. ..

Mr. Faas: Yes.

Mr. Philip: I am sure you are aware that the select committee report also recommended stiffer penalties for violations.

Mr. Faas: Yes.

Mr. Philip: Would you agree that the government could have simply taken the select committee report and come up with amendments to the present legislation, which could have been passed fairly quickly because it had the support of all three parties, and that we would not be sitting here worrying about whether your store and your employees are going to be in jeopardy, and that this bill therefore is unnecessary?

Mr. Faas: We were surprised with what we perceive to be a reversal of positions.

Mr. Philip: The select committee report also dealt with the tourist option. My colleagues in the Liberal Party, I guess, have not read the seventh commandment too much and they go round the province saying otherwise. Recommendation 12 is:

"The government of Ontario, with the Ministry of Tourism and Recreation playing a lead role, should undertake appropriate analyses to develop a provincial framework and policy standards which would define provincial objectives for holiday retailing in support of tourism in Ontario. Such a provincial framework should develop a definition of tourism and be designed to assist municipalities in their consideration of local tourist area bylaw exemptions...."

I am sure you heard the testimony of the Solicitor General. Would you agree that the government did not even undertake that study to see whether the tourist exemption could in fact be dealt with?

Mr. Faas: I do not know what the government did or did not do with respect to that recommendation. We believe it can be done.

Mr. Philip: Would you agree that the municipalities should have at least been consulted before this bill was introduced?

Mr. Faas: Again, I do not know whether they were or were not.

Mr. Philip: We have testimony from them that they were not.

Mr. Faas: I am listening to them now saying they do not want it and I do not blame them.

Mr. Philip: With respect, they are not saying they do not want— They do not want this legislation, but they would like to meet with the minister, even though she has refused them on three occasions, and deal with the tourist exemption, and they are willing to—

Mr. Faas: As it relates to the tourist exemption, yes; in terms of the municipal option, no.

Mr. Philip: We have had comments about extra costs. This week you have an excellent sale, by the way, on cashews. I love cashews. If you go to the Loblaws store in Rexdale you will get an excellent deal on cashews this week. I am sure it is a President's Choice and he made a good choice this week. I know I would pay extra if this legislation were introduced, because of extra costs. We have been told that by other retailers. Have you calculated what your additional costs will be by staying open an extra day a week?

Mr. Faas: We have. I do not have the numbers, but in my brief I am indicating that we would do everything in our power to shift the hours—primarily, it is labour costs that we are talking about—from six days a week to seven days a week, so employees would not benefit by it at all.

Mr. Philip: That leads into my last question. One of the things that I find with the hours my wife and I work is that it is a great convenience to go into my local Loblaws around eight at night or 8:15. There are fewer people there and it is open until nine or 9:30.

We are told that in the west, as a result of the Sunday option, as a result of the municipal option and as a result of being open on Sundays, there is actually less convenience to the average shopper like myself, because in order to make that payroll, you are actually closing earlier. Do you think that would likely happen in Ontario, that you might be open on Sundays but you will be closed earlier in the evening?

Mr. Faas: No, I am not sure that that is exactly what we would do, but I can clearly say to you we would do everything in our power not to have to transfer those additional costs to the customers. Therefore, we would be making adjustments relative to staffing and perhaps hours.

Mr. Chairman: There was one concern I had. I was mulling it over in my mind as to whether it was an unparliamentary statement. You alleged that some of your colleagues had contradicted the seventh commandment. I hope you know what the seventh commandment is.

Mr. Philip: I said I wondered whether or not they had read the seventh commandment.

Mr. Chairman: Oh, all right. Thank you very much, Mr. Faas. I appreciate your coming forward with your information. It is helpful to the committee.

Mr. Faas: I am glad you did not test me on the seventh commandment. I do not know exactly what it was. I would have to run through them.

Mr. Chairman: Unless I have got them wrong I think Mr. Philip got the wrong commandment. It is, "Thou shalt not commit adultery," I believe, if I am not mistaken.

The next delegation is Long and McQuade Ltd., Jack Long, president. Mr. Long, welcome. If you would be good enough to have a seat, you have 30 minutes to address the committee. It is your time and you can use all of that time if you wish to address us.

If there is any time left over, there will be questions, as you have seen, which I will attempt to divide equally among the various parties that make up this committee. We have your brief, if you would like to proceed.

LONG AND MCQUADE LTD.

Mr. Long: As you already mentioned, my name is Jack Long. I am president of Long and McQuade. Long and McQuade is a chain of musical instrument stores. Five of the stores are in Ontario, with others in Winnipeg, Calgary, Edmonton, Vancouver and Victoria. There is one American store in New Jersey.

The company employs about 175 people in its retail establishments, plus a few more in our head office in Scarborough. The largest of our retail outlets is on Bloor Street in Toronto and employs about 60 people. The smallest is in Windsor and employs six. I started the business with a small amount of personal savings in 1956 and have been active as an owner and manager ever since.

Strictly speaking, I do not represent anyone but myself, but unofficially, I believe I represent at least three groups of people. The first is composed of the employees of our own company. The second is the employees and proprietors of other stores in our line of business. The third consists of many other retailers with whom our business shares certain characteristics.

I would also like to point out that I am not associated with Policorp and the concerns that I will be expressing today are my own.

In response to Ron Kanter's comments, as quoted in the Toronto Star on August 27, that it is unfortunate that more real people, particularly consumers, have not made presentations, I would like to assure Mr. Kanter that I am a real person. I am even a consumer as well as a retailer. I am also one of his constituents, by coincidence, and I cast a real vote for him in the last election.

Mrs. Cunningham: So am I.

Mr. Long: Neighbours.

There are several arguments against Sunday shopping which I am sure have been made by other people during these days of presentations. There are factors such as increased costs to retailers, which will have to be passed on to consumers, and the lack of adequate day care facilities for working single mothers. These are all valid considerations, but I am not going to take up the committee's time in discussing them since I am sure they have been capably put forward in other submissions.

I am also not going to discuss the proposed legislation in any detail, except to express an opinion which I share with most retailers. I believe local option, as outlined in Bill 113, would mean that practically all stores in the major metropolitan centres would be legally open on Sundays within three to five years. As I understand it, this is what has taken place in British Columbia, and I think the same thing would happen here.

Mr. Ballinger has suggested that nobody wants to talk about the bill. I thought everybody would have talked about the bill, so I did not prepare to talk about it. However, we do have three stores in British Columbia and I have seen what has happened there. Local option certainly meant open Sundays there. I thought we were past that point. Like the person from Loblaws before me, I do not think there is a retailer in the province, pro or con, who honestly believes this is not going to lead to open Sunday shopping. I think any effort on the part of the government to convince us otherwise is a bit of a snow job.

I do, however, want to discuss some of my own feelings and concerns, which I have developed in 32 years in retailing, and try to make the point that my experiences and apprehensions are shared by many of my colleagues in our business and in other businesses as well. On the topic of whether department stores, toy stores and shoe stores should be open on Sundays, I do not consider myself to have any more valid an opinion than any other member of the consuming public, and while I personally do not think they should be open, it is not with regard to these types of stores that I will express my concerns. I will, rather, talk about my business and the people in it and how it and other businesses like it will be affected if open Sundays become a reality.

The Solicitor General (Mrs. Smith) has said that all regions of Ontario are not the same and what is good for Grand Bend in terms of Sunday shopping may not be good for London. I would like to suggest that with the exception of certain resort areas, such as the aforementioned Grand Bend and others such as Wasaga Beach, Port Carling and Gananoque, there are not major differences between the metropolitan areas of Ontario. Toronto is not different from Hamilton and Oshawa is not different from Kitchener.

Where there are great variations, however, is among the various types of retailing. Our stores, for example, have very little in common with some other kinds of stores, particularly those generally found in large malls, but our stores do have a great deal in common with the retailers of cars, furniture, appliances and other big-ticket or specialty products.

At this point, I would like to explain a little bit about how the retail music product business works. To do this, I will use as an example our store on Bloor Street in Toronto. Some of you may be familiar with it. This store is the largest in our group and one of the largest in our field in Canada. Of its 60 employees, about 46 are employed with us on a full-time basis. Some of these staff members work in the office or in repair shops or in various administrative roles, but approximately 25 of these full-time employees are directly involved with the selling and renting of music products to the public. These people, without exception, came to us as musicians, in that they play one or more musical instruments, and most have worked professionally as performers before coming to work with the company.

Most of their training for the job is done in-house, but as well as attending our training sessions, they are expected to keep up with the latest product developments. This is done mostly by reading manuals and experimenting

with new products, and much of this they do on their own time. This technical competence is very important since someone buying a \$2,000 synthesizer or an expensive saxophone likes to feel that the salesperson has an in-depth knowledge of the product.

We believe it takes about three years before we consider a staff member to be experienced in handling all possible types of transactions. These would include taking trade-ins, arranging financing on larger purchases and discussing the subtle technicalities of the products with top professional musicians and sound engineers. Approximately two thirds of our people who deal directly with the customers do have at least this three years of experience in the company, while many of our sales staff have been with us for considerably longer than that.

The store is open from 9:30 a.m. to six p.m. on Monday through Wednesday, 9:30 to nine on Thursday and Friday and 9:30 to six on Saturday, which is a total of 57 hours a week. The staff members have one day off during the week, and for those dealing with the customers, this is usually Tuesday or Wednesday, which are often the days with the least store traffic. All sales staff work either Thursday or Friday evening, but when they work until nine, they start at 12:30 p.m. in order to make an eight-hour day.

By far the busiest day is Saturday when customer traffic and sales volume are two to two and one half times what they would be on a day in the earlier part of the week. This means that all sales staff work every Saturday. Problems arise when people are on vacation or when a family wedding or an illness necessitates a sales person being absent on a Saturday. There are just no substitutes available who have the knowledge and experience to fill in for the majority of our people.

Working 48 or 49 Saturdays per year is, of course, not popular with our staff members. They do not have the long two- or three-day weekends which most people are able to enjoy with their families in the summer months. They are not able to do things with their children on Saturdays. If their spouses work the traditional Monday-to-Friday week, as most of them do, then their days together are limited to Sundays only.

Because I do not like my staff to make sacrifices that I am not willing to make myself, I have always worked Saturdays as well. Raising a family with weekends that start on Saturday at 6 p.m. and end Monday at 9 a.m. is certainly a possibility. I know because I have done it, but being an involved parent who spends adequate time with his family is very difficult under these circumstances. The fact that we are also working either Thursday or Friday night until 9 p.m. only compounds the problem.

For many potentially good employees, this is too great a sacrifice to make for their jobs. We have lost many people who, just at the point when their experience was beginning to make them valuable staff members, decided they did not have enough time with their families and looked for employment which had more conventional hours.

I am sorry I am spending all this time on background material, but I will get to the point eventually. The mere suggestion that we will be open on Sundays and that these same experienced people will be working Sundays as well, even with an additional day off in the middle of the week, causes considerable concern among our staff. It would, I believe, mean that most of our experienced, valuable staff members would leave the company as soon as

they could find other employment and that very few serious young people would consider making a career in our business. I believe this because I have discussed this with our employees and this is what they have told me. Working every Saturday is something they definitely do not like, but most of them have accepted it as part of the job. To work both Saturdays and Sundays, as would be necessary if our stores were open on both days, would not be acceptable to them.

I realize that in many lines of work it is common to work Saturdays or Sundays or sometimes both. People in the hospitality field or the media or those on the staffs of hospitals must work Saturdays and Sundays, but I would like to suggest there are some differences.

Most people working in these fields work schedules that give them some weekends off. They often work only two, three or maybe one weekend each month. Our people work every weekend or at least part of it. People entering these fields accepted some Sunday work as a condition of employment when they chose that line of work. Our people did not.

Although I doubt that many people in those fields work every weekend year in and year out, some may. If they do, I suspect their family life has suffered. Creating a much larger group of people who would have to live with these difficult circumstances will not help those already working Sundays and will certainly cause some deterioration in the family life of the additional Sunday workers.

Back in February, along with one of our largest competitors, we decided to do something to show our concern about what might happen to our currently closed Sundays. Accordingly, we telephoned almost all the Toronto area retailers in our field, that is, music products, asking them to contribute \$200 each to express our opposition to the proposed changes in a full page advertisement in the Toronto Sun. Of the 24 store operators we called, only one actually declined to participate. We ran the ad on February 15 and almost all of the stores shared the \$4,000 cost.

I would like to emphasize that many of these contributors are small retailers to whom \$200 is a lot of money. The fact that the participation level was as high as it was indicates their concern for the preservation of what they have been able to retain of a normal family lifestyle.

These people who agreed to contribute their \$200, of course, are not executives of retail chains who work from Monday until Friday in a downtown office. These are the people who are actually in their stores day after day, week after week and year after year. They were not so naïve as to think that running one ad in the Sun is likely to have much impact on the government's proposed legislation; they just felt so strongly about it that they had to do something.

1150

Of course, my company has an option. We can do what we have in Vancouver and Calgary and remain closed on Sundays regardless of any changes in the law. Since none of our stores are currently in shopping centres, we will not have to be open on Sundays, and it is our intention to remain closed as long as possible. We are, however, in a competitive business, and I am sure that if Sunday openings become legal, some of our competitors will soon be open. Any stores in shopping centres will certainly be open, as they are in Alberta. It

is naïve to think that these stores will have the option of remaining closed once open Sundays are legal.

Then perhaps we will have Sunday opening by some competitor who is suffering from a period of slow sales, or there may be a new store in the city whose owner believes that by opening this extra day he can take business away from the more established retailers. Others will react to this competition by opening their stores as well, and soon only ours and a few other diehards will remain closed.

At that point, there will be a difficult decision to be made. Do we remain closed and watch a percentage of our business go to competitors, or do we announce to our staff that we have lost the battle and, from that point on, they can add Sunday to their workdays in exchange for another useless day off in the earlier part of the week? There may be a few of our staff members who would accept the change without complaint, but I think the vast majority of our people would either refuse or start to look for other employment as soon as possible. Remember, we are not talking about one or two Sundays a month; we are talking about every Sunday, just as our people now work every Saturday. I have no doubt that Sunday would be a busy day in our stores and we would need full staff, or close to it, to cover the floor.

One of the frequent arguments in favour of Sunday shopping, which has been made even by some members of this committee, is that the movement towards more open Sundays is a natural one but that it has met with opposition at every step of the way.

When it was proposed that Toronto streetcars would run on Sundays, there was considerable opposition; and when it was suggested that sporting events should be allowed on Sundays, again many people were opposed. These things are now never questioned, so the theory goes, and it will be the same with Sunday shopping. Once the emotional opposition fades away, Sunday shopping offers convenience for the public and, therefore, should certainly be a part of our life.

There are, however, some problems with this argument. Although buses and subways operating on Sundays do enhance the family life of many Torontonians who use the Toronto Transit Commission to visit friends and relatives and to enjoy a day together, Sunday is still not a heavy traffic day. There is no rush hour and, therefore, only some of the drivers must take a Sunday shift each week in order to accommodate those wishing to use the transit system.

When sporting events were allowed, it did not mean large numbers of people working on Sunday, and those who did work were almost all part-timers who volunteered to work in order to make some extra money. Not so with Sunday shopping. If Sunday were to be the busy shopping day it is expected to be, then great numbers of people would be forced to work almost every Sunday in order to protect their regular full-time job.

If Sunday shopping is the next logical step towards open Sundays, then what would be the steps after that? It has already been mentioned in a previous hearing that perhaps liquor and beer stores should be open on Sundays, as they are in most American states. The proponents of Sunday shopping often refer to the American example as the one we should follow; so I suppose it would only be a matter of time before these stores would be open, at least in those areas that opt for Sunday shopping. Then perhaps the government offices would be open on Sundays. It would certainly be convenient

for me, since I work every other day, to be able to renew my driver's licence on a Sunday. What about committees such as this one holding their hearings on Sundays? It would have been more convenient for me to appear on a Sunday; I would not have had to take time off work.

I do not believe there is a natural evolution towards Sunday being the same as any other day. The Legislature, I am sure, has no plans to hold sessions on Sundays. For most of the population, Sunday will continue to be a common pause day, whether it is convenient for consumers or not. However, the government, for some reason I cannot understand, is giving in to a small group of shopping centre owners and a few, but by no means all, large retailers at the expense of thousands of people who, like myself and my colleagues, have made retailing their career but still hope to enjoy some semblance of a normal family life.

It seems to me that one of the roles of any good government is to protect minority groups from having their lifestyles negatively affected by the sometimes thoughtless wishes of the majority. We, therefore, have laws to protect racial minorities, the handicapped, women and many other groups within our society. This government's record in the protection of the rights of such groups has been exemplary. Why then are you bowing to the wishes of what does not even appear to be a majority of consumers to deprive those of us who work in retail of having one day a week with our families?

Our stores are open, as I mentioned, 57 hours a week. Many other stores are open even longer. Since most people work a 40-hour week, surely, regardless of their schedules they can do their shopping in the 17 or more hours per week which are available to them. I believe that the current law is workable with some minor revisions. I also believe that it is not difficult to define precisely what a tourist area is and I believe that with some effort, the government could readily decide which types of stores should be allowed to open on Sundays in nontourist areas.

Please do whatever is necessary to make the law as fair as possible for all concerned, but please do not take away our Sundays.

Mr. Chairman: Thank you very much, Mr. Long. We have 10 minutes left, so it will be three minutes and 20 seconds per caucus.

Mrs. Cunningham: Yet another in opposition to this wide-open Sunday shopping. I think that one of the points that you made that impressed upon me was the reference to the streetcars and the Sunday sports. I agree with you that the real difference in this legislation is that many, many more people will be forced to work on Sundays.

I wonder if you would have any advice for me, in the short period of time you have left, as to how I can persuade the Liberals on this committee to go to the Premier and tell him that what you are stating does have precedence in this province and, in fact, will happen with this bill.

Mr. Long: I suppose I understand from what was in the Star today, although I have not read it—I did see what was in the Globe—that it is almost a fait accompli and that we are probably all just here, I do not know doing what, taking up our time one way or another. I do not know whether you or I or all of us can do anything to persuade the government to make any changes.

Mrs. Cunningham: Do you have any advice for us down the road?

Mr. Long: Yes. Do not vote Liberal. I did not think you were going to, anyway.

Mr. Chairman: Mr. Kanter, three minutes, 20 seconds.

Mr. Kanter: I would like to commend the brief. I think it was from the heart and to the point. I was interested that your business is not open in those districts where it is allowed to be open, even though it is in malls where presumably some of the other stores are open.

Mr. Long: We are not in malls.

Mr. Kanter: I stand corrected on that point. You are in jurisdictions where the law allows you to remain open, and you make a market decision because of the kind of business you are in, the specialty, upper-end, that kind of thing. You do a good business, I take it, and yet you are open shorter hours than your competitors. I understand that to be the case from your presentation.

I would just like to make one brief comment.

Mr. Long: Can I respond to that or do you want to make a comment first?

Mr. Kanter: I would like to make a comment and I think my colleague wants to make a comment as well, and that is with respect to the views of other business people like yourself, who are building up businesses.

In the very same chair where you are sitting today, yesterday we had someone from Tourism Ontario, a small-business person building up a business. The position of Tourism Ontario is we do not need any laws at all. Let the marketplace prevail. I presume the gentleman, certainly very involved in his community, may well have had a family. He came to us and said: "Do not be as restrictive as you are. Do not give either the province or the municipal governments the power to restrict us."

While I appreciate your views, I appreciate the sincerity, the conviction of your views, I will tell you that others have come before our committee equally committed to the fact that our law, this law, Bill 113, is too restrictive. I just wanted to leave that comment with you.

Mr. Long: Can I respond to the first part?

Mr. Chairman: Go ahead, Mr. Long.

Mr. Long: I do not know if any of you are familiar with our business or if any of you are familiar with Calgary, but in Calgary there are five players in our game and they are all in a strip along one street. Not very long ago, open Sundays became legal in Alberta. The stores all elected to stay closed except one who runs very large newspaper ads on Saturdays which say, "Open Sunday." Of course the others of us are all wondering how long we can wait this out, how much business we will allow him to take from us before we react.

We have discussed it with our staff. Our staff people certainly do not want to have any part of it. Right now we are in the waiting game that I think I referred to in this. We may have to go to our people in Calgary and say: "Okay, we lost, we are opening starting next Sunday. Your hours are this and that."

So far we are resisting. We are doing the same thing in Vancouver and we will resist as long as we can. There will probably come a point where we cannot resist any longer.

1200

Mr. Chiarelli: I will be very brief on the point. You spent 15 pages submitting your points of view. On page 15, the second last paragraph, you indicate, "I also believe that it is not difficult to define precisely what a tourist area is."

With respect, you indicated you thought this committee was doing a snow job. To a certain extent I think your brief is doing a snow job because I think you should have done the reverse. I would have preferred, as a member of this committee, if you had come in and spent 15 pages trying to define tourism, which everybody says, including yourself, is easy to do, which you have not done and which the opposition says it will do, but they will not do. That is really the issue here.

How do you define the city of Ottawa? Is it a tourist area as the nation's capital?

Mr. Long: No, it is not a tourist area.

Mr. Chiarelli: Is part of it a tourist area? Have you ever visited Ottawa?

Mr. Long: Yes.

Mr. Chiarelli: For business or pleasure?

Mr. Long: I have visited both ways.

Mr. Chiarelli: You are a tourist. You went to Ottawa. Is it a tourist area? Define a tourist area for me. I really would appreciate it.

Mr. Long: I think there is more to it than being a tourist area. There are tourist types of business. For instance, I do not think that a furniture store should be open in any tourist area because a furniture store is not a tourist business. I think more than tourist areas, what we have to define are tourist-type businesses. Then those tourist-type businesses can be open in the tourist-type areas.

Mr. Chiarelli: But it is such a critical part of these hearings that person after person, such as yourself, has come before this committee and basically said it is easy to do, but they do not do it.

Mr. Long: Unfortunately, we do not have the advantage of hearing all the other hearings. I could have come the first day, heard what everybody else said and then tried to say something different. We do not have that advantage. I have to work every day.

Mr. Chairman: Thank you, Mr. Long. We appreciate that.

Mr. Philip: Mr. Chiarelli says that you cannot define tourism. Would you agree that there are all kinds of criteria that could be used and could be looked at for defining tourism, including the type of establishment?

Mr. Long: Yes.

Mr. Philip: Would you agree that the municipalities claim that they would be willing to help define tourism, and that the municipalities are not stupid people?

They have said that they are willing to work with the minister even though the minister has refused their help on three occasions. Would you agree that the municipalities, as a result of the experience in the 100 cities that have voted for a tourist exemption, might be able to assist the minister?

Mr. Long: I understand they are willing to try.

Mr. Philip: Would you agree, if you are going to have any kind of tourist exemption, that there should also be an appeal mechanism so that those who disagree with the tourist designation might at least have an opportunity to appeal it, and that under this legislation, in fact, you can simply say, "Yes, we are going to open up everything without any kind of criteria," and that this is a regressive step?

Mr. Long: That part seems very vague in the bill.

Mr. Philip: It is vague because there is nothing in the bill on that. A municipality could decide that the stores on the north side of Bloor Street are open and the ones on the south side of Bloor Street are closed if they so desired.

Yours is on the south side so that you would be out of business on Sunday. The guy across the road from you could open up a store. That is how vague this legislation is.

Would you agree that the present legislation is less fair than even the previous legislation?

Mr. Long: To some people it is less fair. I agree that to some people it may be more fair, but I do not think we want to trade some unfairnesses for other unfairnesses. We want to fix the unfairnesses.

Mr. Philip: Can you tell me, have you calculated whether you would have additional costs if you have to be open on Sunday? Where would those costs come from?

Mr. Long: We would not so much have additional costs. We would have a big problem, which would not relate particularly to costs. As I mentioned in my brief, it is a long training period for people in our field. They are hard to find. Trying to spread the ones that we have—the experienced people—over seven days, would be a big problem. There might be a cost to it as we would have to fill in with other people, but that would not be the main aspect.

Mr. Philip: Would you agree that when a person like myself—I play one musical instrument—goes in and wants a synthesizer, I do not know anything about synthesizers, so I rely on somebody who can play the organ or the piano and who has a knowledge of the product. We have been told by people like you who have specialty stores that maybe they would not have additional costs, but if I walk into that store on Monday or Tuesday I would not find that expertise because that expertise would have to be in on the heavy days of Saturday and Sunday. I might end up with poorer service because I would end up buying a product that was inappropriate to what I really needed.

Mr. Long: That is the case now on Tuesdays and Wednesdays.

Mr. Ballinger: Come on, Ed. Tell us what instrument you play. I am dying to hear.

Mr. Philip: I play the violin. My wife plays the piano.

Mr. Chairman: On that note we will end, Mr. Long. Thank you very much for your input. It has been most helpful.

The committee recessed at 12:07 p.m.

CA20N

XC14

-S7E

J-31b

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT

Tuesday, September 20, 1988

Afternoon Sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Philip, Ed (Etobicoke-Rexdale NDP)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

Ballinger, William G. (Durham-York L) for Ms. Poole

Collins, Shirley (Wentworth East L) for Mr. Keyes

Cunningham, Dianne E. (London North PC) for Mr. Sterling

Clerk: Deller, Deborah

Staff:

McNaught, Andrew, Research Officer, Legislative Research Service

Witnesses:

From Lansing Buildall:

Kitchen, Jill, Director of Training

Kitchen, Howard E., President, Lansing Lumber Mart

Kitchen, W. C., President, Lansing Building Supply

Individual Presentation:

Tryphonopoulos, Nicholas

From the Coalition for Family Values:

Keith, Norman, Legal Counsel; with Mathews, Dinsdale and Clark

Johnson, Paul, President

From Sears Canada Inc.:

Sharpe, C. R., Chairman and Chief Executive Officer

Eagan, J. J. M., Vice-President, Secretary and Corporate Counsel

Larsen, Ann, National Merchandise Manager and Public and Government Affairs

AFTERNOON SITTING

The committee resumed at 2:04 p.m. in room 151.

Mr. Chairman: The first delegation before us this afternoon is Jill Kitchen, director of planning, Lansing Buildall. Ms. Kitchen, you have 30 minutes. It is your time. We are here to listen to you. If you want to spend all that time making a presentation, that is your prerogative. If there is time left over, there will be questions, I am sure, from the various committee members, and I will attempt to distribute that remaining time equally among all three parties on this committee. Please proceed. Perhaps you would identify the two gentlemen on your left and right.

LANSING BUILDALL

Ms. Kitchen: I would like to introduce, on my left, my father, Bill Kitchen, who was the founder of Lansing Buildall 38 years ago. My uncle, Howard Kitchen, is the owner of two stores called Lansing Lumber Mart in the west end, Erin Mills and Oakville.

My name is Jill Kitchen and I am here as a spokesperson for the 900 employees of Lansing Buildall, as a second-generation heir to a family business, as a representative of the over 10,000 customers who signed our ballots and petitions against open Sunday shopping but, most important, as a family member.

I realize that most of what you have been hearing has been repetitive, and I gather it has been very repetitive from the turnout today. For that, I admire those who are in attendance, their fortitude and perseverance, but I would also like to point out that as a private, family-owned company and as a member of an industry as a whole, we have been repeating the same message to the government for the last 14 years. Our commitment to the quality of life for our staff members and their families, opposition to seven-day retailing based on the lack of cost-effectiveness of Sunday openings and the impracticality of legislating a Sunday work option is sincere and consistent.

To demonstrate the industry's long-term support for regulated store hours, I would like to read a letter from Sandy MacLachlan of MacLachlan Lumber in Kingston, Ontario, dated 14 years ago, February 25, 1974. It is included in your appendix on the second page. It is addressed to the Honourable George Kerr.

"Dear Mr. Kerr:

"It was a pleasure to hear you again at the Lumber and Building Materials Association of Ontario convention on Tuesday, February 19, in Toronto. I was disappointed that the meeting closed without a show of hands from all those businessmen in the retail builders' supply trade. Had you asked for a straw vote, you would have been amazed at the overwhelming number who favour control of store hours, weekdays as well as Sunday. The only person I know who would take the opposite approach was the principal of Lumber King.

"Each manager tends to operate a service yard. It takes more than four years to develop a good salesman for this type of operation and they are apparently harder to come by (from all the discussions with fellow dealers) than, say, university graduates in most disciplines.

"No manager can visualize an efficient, well-run store with high morale among such employees if we have unlimited hours.

"It is the spectre of poor service, unhappy customers, escalating costs, poor morale that makes us as a group so intensely against wide-open evenings and Sundays." Remember this was 14 years ago.

"We all express strong disapproval at the deteriorating quality of life that attends these uninhibited store openings. It's a hackneyed expression, but it conveys a desire for a nebulous set of living conditions, social and moral values that are just too easily lost.

"I know you've heard all the arguments. I just wish you had witnessed the 200-to-1 ratio in favour of control."

Lansing Buildall has been a long-standing supporter of a common pause day. This notice from the president of Lansing, Bill Kitchen, was posted in all our stores and distributed to customers back in 1984. Basically, what it does is state the arguments that you have heard ad infinitum.

"There are many different opinions on the subject. Some retailers, shopping malls, newspapers and others are actively campaigning for an open Sunday, largely, one suspects, because they hope to profit from greater activity or gain a relative advantage as merchants compete for the public's dollars.

"Where does Lansing stand? If there is seven-day retailing, Lansing will participate. We have to remain competitive and prevent others from gaining a relative advantage. We do not want to see this happen for several reason that should concern you—the consumer. We are convinced that our sales will not increase because you can buy home improvement items seven days a week and everyone is open. Our cost for staffing and overhead will increase. Without greater sales, we must pass the increased costs on in the form of higher prices. You are the people who will pay for the extra shopping hours.

"As well, the quality of staff services to you will decline, as we will be forced to use more part-time people to man our outlets. In spite of our efforts, we are unable to train part-time people to the level of our experienced full-time employees. In building materials, we know you want trained people to assist you with advice and information. This quality of service at competitive prices is the basis on which Lansing has built its reputation.

"The final factor influencing our position is personal. It is the quality of family life. We feel it is important that families have the opportunity to do things together. With schools occupying five days a week and retailing currently taking six days, there is only one day available for activities in common. Seven-day retailing will virtually destroy this opportunity as there will be greater demands for full- and part-time people to work that seventh day. There will be no common day when all in the family are free to pursue their joint interests. The bond between parents and children is tenuous enough without removing the opportunity for common sharing of activities."

From the fervour of the presentations you have heard, I think it is safe to say this is an emotionally charged issue. It also represents a conviction that has been evidenced over time. However, please do not discount the opponents of Sunday shopping as well-meaning individuals or groups with a cause nor discount them as not representing real people but respect them, as is their due, as astute business persons, employees and consumers with direct and invested interests, not as a large bureaucracy that, floundering, is looking for a lifeline to appease shareholders. If it made good economic sense, do you not think the advocates' side would balance, if not outweigh, the opponents? But it does not.

In an increasingly service-oriented society, customer service is being touted as the essential ingredient that will make or break a retailer. To service our market, Lansing stores open at 7:30 or eight in the morning six days a week. In the municipalities, where permitted, in order to maintain market share and provide customer convenience, five branches remain open until 9 p.m. five days a week. That is a total of 74 hours of shopping per week. Is an additional five hours on Sunday worth it, worth the disruption to family life or the taking away of an opportunity to slow down and regroup, worth providing the government that has demonstrated its inability to deal with a contentious issue, that of the administration of the Retail Business Holidays Act, an opportunity to cop out?

Let's take a moment to explore some of the arguments for open Sunday shopping or, as the government would phrase it, municipal option. First, to establish the fact that municipal option does lead to seven-day retailing, I would like to quote from the second report, 1987, of the select committee on retail store hours, the committee on which the Solicitor General (Mrs. Smith) sat and which unanimously endorsed the recommendations, citing page 6:

"At the same time, in the interest of efforts to promote and preserve the quality of family life in Ontario, the committee rejects wide-open Sunday and holiday retailing as has become the norm in many major urban centres in Alberta and British Columbia and in many American states." Wide-open Sunday shopping in British Columbia and Alberta started with the municipal option.

As for the issue of consumer convenience, more shopping hours to spend disposable income, Walter Pridham, formerly vice-president, marketing, for Sears and spokesperson of that company's opposition to open Sundays, knows at first hand the impact of seven-day retailing. They have stores open in both British Columbia and Alberta. "Not only do the consumers not spend any more, but as a result, evening shopping hours have been reduced in order to absorb the expense of seven-day retailing." The net result is no additional profit, no additional hours, but to the employee it also means no single block of time to spend in other pursuits nor the option of spending it with family and friends.

What I would like to suggest is that dealing with the issue of Sunday shopping is an attempt to treat a symptom and not the problem. Unfortunately, as oft-times is the case, the treatment of the symptom temporarily masks and then compounds the problem.

The Retail Business Holidays Act is flawed. Since its inception in 1976, it has been difficult to administer fairly and to enforce. However, it has been upheld in the Supreme Court of Canada as constitutionally valid under the freedom of religion and conscience provision of the Canadian Charter of Rights and Freedoms.

What you are hearing from the people of Ontario today is that they would prefer to grapple with the current law rather than to have wide-open shopping. What the government is proposing to do is to replace a known, flawed law with an unknown one which may prove to be equally unenforceable, if not more so.

To demonstrate this point, I would like to comment on four statements that were presented in a response letter directed to "Dear Concerned Citizen", from the Solicitor General. The letter stated:

1. "The new law is fairer because it replaces an old, unenforceable law." To achieve this fairness, what is being proposed is an increase in fines and the elimination of roping off.

If this is the solution, then we do not need a new law but rather an adjustment to the current one. It states that "standard rules will remain in place unless a municipality decides, for its own reasons, to alter the law to reflect its own values or needs." Where is the fairness in this statement? What of the time and expense that must be borne by the individual retailer to repeat his or her message of opposition ad infinitum to each municipality and the time away from the day-to-day operation of running the business, from managing staff and paying bills?

Retailers are not professional politicians, nor are they lobbyists. They are professional business persons who need to dedicate their time to the running of their enterprise. The result of the new law, as it would exist in today's competitive environment, is seven-day retailing. The only plus, from the government's perspective, is that, with everyone open, there will be no difficulty in enforcing store hours.

Restricted hours have provided a market niche for the convenience store. Removing that restriction removes the market. Any arguable gain in employment by department stores and chain retailers as they compete and overwhelm the small independent or franchise will be offset by the demise of a convenience store.

British Columbia will attest to this inevitable outcome of seven-day retailing. Is curtailing small business enterprise, the backbone of our society, what we really want to support?

2. "Changes to the Employment Standards Act will ensure fairness for workers." A nice thought, but impossible to enforce, as there are so many subtle ways around the law. Retailing is not an appealing form of employment—long hours, evenings and Saturdays. Everywhere you look there are signs in the store windows for part- and full-time workers. Working Sunday will just compound the recruitment problem. It is not reality to say that the workers will be protected. We cannot run a business that way.

To say that an employee does not have to work on Sunday, when he or she is needed, puts an unfair burden on his or her coworkers. As an employer, we try to be fair to accommodate special needs and to be responsible to our staff. In order to do this, however, we must first succeed in business.

3. "The new law is fair to people of all faiths." This is a loophole that was well presented and it is included in your appendix, in an August 30 article in the Toronto Star. As quoted in the article, "Liberal MPP Ron Kanter acknowledged that 'this was a tough part of the act to draft.... There is a concern that people don't manufacture religion for the purposes of the bill.'" MPP Mike Collins stated, "Retail chains will simply declare the slowest

business day of the week to be their pause day." This is a loophole that will just serve to ensure seven-day retailing.

Mr. Chairman: I should maybe correct the record. I think that should be "Shirley," not "Mike."

Ms. Collins: Except that I was not there.

Mr. Chairman: Is that right?

Ms. Kitchen: Anyway, the article is in the—

Mr. Kanter: I believe Mike Collins is a regional representative from Niagara. I think he is a regional councillor from Niagara.

Ms. Kitchen: Sorry, I got the titles wrong. It is very confusing, this process.

4. "The new law protects retailers in malls." Again a nice thought, but equally unenforceable, as there are many ways for mall owners to sidestep the restrictions. I know you have heard all of these arguments before and I am sorry for reiterating them, but my point here is that, instead of solving the problem, that of determining the type and size of business able to open on Sundays and defining tourist areas or regions, the government has opted for a Band-Aid solution that is not in the best interests of Ontarians and will prove to be impossible to enforce.

In an attempt to address the problem, the select committee on retail store hours, second report, 1987, has accepted the province's responsibility to maintain store closing rules in the recommendations. It has proposed constructive amendments in the Retail Business Holidays Act. It is Lansing's position that these avenues be pursued.

In closing, there are two more points I would like to address. The first is the right of the employer and the second the responsibility of government. Employer rights is an issue close to home and I have already stated that I am a second-generation retailer. However, it has taken me 30-plus years—I do not want to give my age away—to decide to join the family firm. The sole reason for this delay was the quality of life experienced in retail. Growing up, I saw Lansing as a three-person operation: my mom, my dad and Orville Blackwood, an employee who is still with us today.

1420

At that time, stores operated only from 8 a.m. until 5 p.m., six days a week. My family experience consisted of seeing my dad for dinner weeknights, before he went back to work, and on Sundays. His value of the family was evidenced by his efforts to make Sunday a special day for all seven of us, drives in the country, athletic outings, etc. I am not naïvely suggesting that Sunday closings will mean that people will spend the day with family, but it does allow for that opportunity.

What I am suggesting is that an entrepreneur has rights too. Seven-day retailing removes those rights. The quality of life is a today issue. I am part of the baby-boom generation and I want time to spend with friends and family. Only because Lansing is a maturing organization can I be guaranteed of that time.

Without a common pause day, there will be no time off for the fledgling one-person to two-person retailer. I do not think it is unreasonable to assume that the thought of seven days and five nights will dissuade many from considering starting their own retail business. Lansing currently employs 900 people. I would hate to see the day that contribution to society was downgraded in favour of unlimited consumer convenience.

Finally, on the issue of responsible government, I have read articles on how successful last year's Boxing Day sales were and that the positive response in itself was proof that consumers wanted seven-day retailing. Justifying unlimited shopping by the number of people who shop is not a legitimate measure. I totally agree with the Liberal position. Once the legislation is passed and a few years have elapsed, the controversy will die down and we will all adjust. But that does not make it right; nor does it make it responsible; nor is it a true reflection of what the majority wants. The accurate measure is how actively people speak out.

The opinion of the Solicitor General, stating, "Who did you expect to come forward to the committee except the people who are opposed?" is wrong. If Sunday shopping were an issue that the people of Ontario felt strongly in favour of, they would be here in equal or greater force to those in opposition. But it is not a big issue for the general public. They can work their schedules around a common pause day. Also, if the shops are open, they will shop.

Quality of life is what the issue is. The government's responsibility is to protect and preserve our enviable lifestyle, not to base laws solely on the ease of administration nor to follow a trend under the guise of progress. The Liberal government has abused its majority position, as evidenced in the paper this morning.

Without informing the public of the issues and then asking its opinion, it has abdicated its responsibilities to the municipalities and then stated, "This is non-negotiable." Ontarians have the strength and resolution to stand on their own. They do not need to follow a crowd. They will not be any less competitive nor perceived in a diminished manner internationally for their ability to preserve and protect their lifestyle. In fact, if successful, they will become the role models for tomorrow.

Thank you very much for your time.

Mr. Chairman: Thank you. There are nine minutes left, three minutes to each caucus. Mr. Cureatz, Mr. Philip.

Mr. Ballinger: Sam was never interested in (inaudible)

Ms. Kitchen: I am flattered.

Mr. Cureatz: It is very good this is on television. My wife might be watching. I would be a little more discreet. But now that we are on the topic—

Mr. Chairman: That will be stricken from the record.

Mr. Philip: You should see Bill when those college kids are with him. If there was ever the—

Mr. Chairman: Let's get to the matter at hand, Mr. Philip. Mr. Cureatz's three minutes are starting now.

Mr. Cureatz: It is so difficult, but thank you for a fun brief. I just had to smile all the time, because you have been slashing away at the bad people. They are the Liberals. I am the good fellow and he is not so bad either here, for the New Democratic Party. Strangely enough, we have a unique coalition between the New Democratic Party and the Conservative Party against this legislation.

Mr. Philip: We always were the party of small business.

Mr. Cureatz: I can see it is the afternoon after a nice lunch.

I do want to apologize in a way for some of the other members, but we have been on the road for about four weeks. Now that we are back at Queen's Park, some of us slip in and out to try to get caught up on constituency matters.

There are so many areas I could pursue. You said you are confused with the process. It is very simple. I ask you nice broad, open questions and you respond by giving them all the devil. Now that we have laid the groundwork for that, I really was amused by your quotes about the Solicitor General, who sat on previous committees and, of course, as recently as today, has come out on the front page of the Toronto Star, that bastion of Liberalism, and has been quoted as saying that the local option—about which you have been quite concerned; I have made notes, and I could refer you back to your comments—is not going to change. Do you find that a little frustrating?

Ms. Kitchen: Actually, I have to confess that sitting down to write—we are in the middle of a huge sale, and if I were not here, I would be out shipping in Markville. It takes a fair amount of time to put a presentation together, and one of the great difficulties I had with putting this presentation together and getting organized to do so was the futility after reading in the paper over and over again that it has already been predetermined.

This morning I get presented with it again: "Did you see the Globe? Did you see the Star?" It is the same message. Yes, it is very, very frustrating.

Mr. Cureatz: Funnily enough, that is the right answer I was looking for.

Ms. Kitchen: I am glad.

Mr. Philip: The only sensible answer.

Mr. Cureatz: Who are your provincial members of parliament? Do you know?

Ms. Kitchen: I do not even know. Do you know?

Mr. H. E. Kitchen: We have seven stores in a ring across the top of Metropolitan Toronto.

Mr. Cureatz: I am thinking of you personally in terms of your own residences.

Mr. H. E. Kitchen: Margaret Marland.

Ms. Kitchen: NDP, in the Beach.

Mr. Cureatz: That is Marion Bryden. We will not pursue that because Marg and Marion, of course, are against the legislation.

Here is what you do. You call the Premier's office. I am serious; this is what you have to do. He is the one who is forcing it down all those backbenchers over there. They have got nothing to say about this. I cry for them. My heart bleeds. I know: I was there once, and I am trying to enlighten them.

Mr. Kanter: It was different then.

Mr. Cureatz: Oh, it is different. Oh, sure.

Mr. Chairman: I hate to leave you in a (inaudible) mood, but your time is up.

Mr. Cureatz: You call the Premier's office. Get hold of Vince Borg. He is the new head honcho over there. Tell him that you are against it. That is the only—

Mr. Chairman: Mr. Cureatz—

Mr. Cureatz: I was on a roll.

Mr. Chairman: Okay. Mr. Philip, three minutes.

Mr. Philip: I would suspect that, like the lumber dealer I deal with, you deliver, do you?

Ms. Kitchen: Yes.

Mr. Philip: Free delivery on anything over \$100 or some formula like that. You have seven stores, some of which are in different municipalities. If this legislation goes through, are you likely on a Sunday to be delivering from those stores which are in adjoining municipalities into those stores which are closed, in order to deliver lumber on a Sunday?

Ms. Kitchen: I am quite convinced we would. It would very much disrupt our business, because not all of our branches provide delivery. What they do is have a co-operative arrangement with a sister branch. Unfortunately, the sister branches are in differing municipalities, so in order to provide any kind of customer service, we would have to then lobby to open a sister branch to be able to provide those deliveries. But if a customer comes into our area and wants to buy and take delivery, yes, we would deliver wherever.

Mr. Philip: You probably deliver anywhere within a 25-mile radius or 50-mile radius or something like that?

Ms. Kitchen: Fifty plus.

Mr. Philip: So it is not only your salespeople, but also your trucking people, your shipping people—

Ms. Kitchen: It will be our office administration people; it will be everybody.

Mr. Philip: And you will be shipping into municipalities which may decide that the Sunday option is not for them?

Ms. Kitchen: That is true.

1430

Mr. Philip: In fact, because of the stupidity of the municipal option, you will actually be providing service and shopping in those municipalities where the municipalities have exercised their democratic right not to be open on Sunday.

As a retailer then, can you see other businesses doing that kind of thing? If I want to do business and I have a competitive edge and I happen to have a branch in Peel and Metro decides to stay closed, I would be pretty foolish not to advertise that you can pick up a phone and get deliveries on Sunday from the Peel regional store.

Ms. Kitchen: What you are doing is just defining the impetus behind the domino effect. Because of that market advantage, you are going to be providing an awful lot of pressure on the governments of the municipalities that have decided to be closed. Those retailers in that municipality have to protect their market share. They are going to have to start lobbying for that municipality to be open.

Municipal option is not realistic. It means seven-day retailing. Looking at it as a committee or however, what has to be done is to look at regions and designate regions as tourist areas. I recognize that it is a very contentious problem, but there have to be other ways around it rather than just copping out and advocating total seven-day retailing.

Mr. Philip: Would you agree that lumber is not a tourist product anyway and that perhaps it should not be sold on Sunday?

Mr. Chairman: Thank you, Mr. Philip. Mr. Ballinger.

Mr. Cureatz: The brains trust of the Liberal bastion.

Mr. Ballinger: Thank you, Sam. The nicest thing you have ever said about me.

First of all, I want to say welcome. I am one of the so-called big bad Liberal backbenchers. Look how tall I am.

I want to go to page 3 of your brief. I do not want to take issue with it but I certainly disagree with your comment that the government has demonstrated inability to deal with this contentious issue. I think we have done precisely the opposite; I think we have put the issue front and centre, unlike previous governments which shuffled it off in the back corner, hoping the issue would go away.

On your comment about designating regions, you said you had seven stores?

Ms. Kitchen: That is correct.

Mr. Ballinger: Could you tell me the location of those seven stores?

Ms. Kitchen: The north store is in Markham; then Scarborough, North York, Etobicoke, two in Mississauga, Erin Mills and Oakville.

Mr. Ballinger: Okay. I suggest to you the point you made is

reinforced in Bill 113, that in fact the municipal option in Bill 113 designates the upper-tier level, not the lower-tier; that in fact all your stores are located in York region, Metro, Peel region and Halton region, which means the local municipalities do not make that decision at all. That decision is made by the regional council.

I am a retailer and I am also a former municipal politician—I have sat at the regional level for seven years—and I suggest to you the domino effect will not work because each of the regional municipalities will be watching what the other municipalities are doing within the region. If I were, for example, a North York councillor and an application came in from Scarborough under the municipal option to be open, then I, as a North York councillor, would not support Scarborough's application, because in so doing I would realize that pressure would be put on me to support my own municipality. It is a check-and-balance system that I believe is honest and one that has proved to work.

Ms. Kitchen: Do you want to comment?

Mr. W. C. Kitchen: I would just like to say that Walter Pridham, the vice-president of Sears, and I met back in late May with Hershell Ezrin to deal with how these things might be put forth, and there was no question in my mind that he recognized that there was a tremendous problem in terms of this regionalization. Certainly at that time he put forth nothing to indicate the kind of thing you are referring to.

Mr. Ballinger: It is in the bill.

Mr. W. C. Kitchen: It may be, but he did not understand it. That is sort of an interesting point.

Mr. Ballinger: The fairest comment—I want to suggest to you there are a number of politicians at Queen's Park with a good solid municipal background. Mr. Kanter is one and Ms. Collins is one. In fact, we do understand the difference between local and regional, and I wholeheartedly support this particular section within the bill because it will work.

Mr. Chairman: Thank you.

Mr. Kitchen, I would give you the opportunity to respond to that, but unfortunately, I have to keep a tight rein on the time here so that everyone gets heard.

Mr. W. C. Kitchen: I understand what you are doing.

Mr. Chairman: We appreciate your coming forward. I am sure you are busy with all those centres, and your information is helpful. Thank you very much for coming forward.

Mr. W. C. Kitchen: Thank you for the opportunity, as long as it is not an exercise in futility.

Mr. Chairman: The next deputant to appear before us this afternoon is Nicholas Tryphonopoulos. Is that right?

Mr. Tryphonopoulos: Yes.

Mr. Chairman: I think it comes from the Greek word "phono." Is that part of it?

Mr. Tryphonopoulos:: The spelling means nothing.

Mr. Chairman: As soon as we get the room back to order and Mr. Cureatz takes his seat, I would advise you that you have 30 minutes. That is your time. We are here to listen. We have a copy of your brief. If you choose to use all of that time, that is your prerogative. If there is some time left over, you will see that there will be questions from the members of the various parties, and I will allocate the time equally among them for questions, statements and so on.

Mr. Tryphonopoulos: I would also like the privilege to ask questions, if I may.

Mr. Chairman: We have got into difficulty with that in the past, and the reason for that is this. If you ask questions, I have difficulty then trying to manage to see that the time is equally divided among the members. We will play it by ear, but it has happened on the road and we have had some difficulties. I want to be fair to all of the members here in terms of having an opportunity to ask questions, so I think we will restrict that for the moment. You go ahead with your presentation.

NICHOLAS TRYPHONOPOULOS

Mr. Tryphonopoulos: I would like to start by congratulating the committee members for enduring a long schedule of hearings this summer. I believe your work will be of great help to the government and your colleagues when they consider amendments to the Retail Business Holidays Act.

I am very pleased indeed that your committee provided the opportunity to the people of Ontario to express themselves on the issue of a common pause day. Clearly, the vast majority of those who have appeared before your committee—the store owners, the working people, the women, the church representatives, the municipal politicians and the other individuals and organizations—have spoken in favour of maintaining and promoting a common pause day.

Their reasoned conclusion was that despite the government's stated intention to keep Sunday as a common pause day, the proposed Bills 113 and 114 will eventually lead, through the municipal option, to wide-open Sunday shopping, without any real protection for those workers who do not wish to work on Sundays. I will not repeat arguments that you have heard so many times, but I will say simply that I subscribe to their conclusion.

I would like to believe that the government will heed their concerns, especially the concerns of workers and store owners who are directly negatively affected, in amending the Retail Business Holidays Act. Closing the loopholes, raising the fines for violators and revising the procedure in designating tourist areas will improve the act and will make it more enforceable.

It is my impression that the government considers the existing way of designating tourist areas as the main problem of the present act. The answer might be the creation of a provincial administrative body which will operate within a certain set of guidelines. That body will consider proposals from municipal authorities and decide whether or not the proposed tourist area satisfies the provincial guidelines. The guidelines might require that municipalities hold hearings to solicit the opinion of the public before forwarding their proposals to the province. A committee composed of

representatives from the judiciary, the provincial government and the municipalities might serve as an appeals body.

1440

No one doubts the importance of the tourist industry to the economic wellbeing of this province, but I am afraid that some comments we have heard have tried to exaggerate the income-generating potential of tourists shopping on Sunday afternoons. I think Asians, Americans, Europeans or Canadians do not come to this province with the purpose of going grocery and clothing shopping between one and six on Sundays. I hope the members of this committee do not subscribe to the view that Sunday store opening is a prerequisite to achieving world-class status. I am sure you have heard claims that high housing costs are moving our cities to world-class categories and, I may add, our people out of the housing market.

Before I close my presentation, I would like to make some remarks about the policy formulation process that has become quite common these days. I am talking, of course, about the practice of requiring the members to support the leader's position on an issue before the caucus has an opportunity to consider freely its implications or consult in some way with its constituents. Such a practice downgrades the members of parliament and in the long run does not provide good government for the people. I know you have the power to change things. It is a matter of will. I do not like to think that the time has come when only minority governments listen to the people.

Mr. Chairman: Thank you very much. We have about 21 minutes, so seven minutes for each caucus.

Mr. Cureatz: Thank you for your presentation. I want to centre in on two items. In a way you have expressed your concerns, in summation, about the opportunity of individual politicians. Of course, I have some fun with my Liberal backbench colleagues over this matter, but it is a serious concern in terms of the political process. I have had the opportunity of sitting over there and I know how frustrating it is. I suspect there are some members within the Liberal caucus, of whom I have not found any yet, but I am convinced there are probably one or two, who are not overly happy about the legislation.

Mr. Tryphonopoulos: I have heard there is more than one.

Mr. Cureatz: Are there? All right. Then your information is certainly better than mine. They are pretty close-mouthed over there in relating some of their inside concerns to me; heaven knows why, I would never use it against them. In any event, who is your provincial member of parliament?

Mr. Tryphonopoulos: Brad Nixon.

Mr. Cureatz: Ah, Brad Nixon. Have you approached him about this particular issue?

Mr. Tryphonopoulos: I have.

Mr. Cureatz: Have you visited him personally?

Mr. Tryphonopoulos: Yes, I have.

Mr. Cureatz: Okay. Obviously you have not had much success with him.

I do not think he has spoken out particularly on the matter yet. It would not hurt to approach him again before we have the final vote in the Legislature on this matter, because I have been trying to say to the Liberal backbench members over there that in three years' time we will have another go-around and they will not be returning in numbers as they did the last time, and if one or two do not cut their own cloth on this particular issue, then they are going to go against the red tide that took place a year ago. That is going to be of their individual making. I wonder how you felt, where you indicate on the top of your second page, "I would like to believe that the government will heed their concerns."

Of course, in today's Toronto Star and Globe and Mail there has been blatant indication that the local option is not going to be turned around. The Solicitor General was quite adamant about that. If you think you are frustrated, let me tell you, we are here on the committee and we hear time and time again delegations from coming forward, and as good and fair as the chairman is sometimes, he does annoy me when he says, "We are here to listen," because sometimes I wonder if the Liberals are listening. What about expressing a degree of frustration, if there was any, when you observed the front page of the Toronto Star about the government's position on the legislation and the local option?

Mr. Tryphonopoulos: As a matter of fact, one of the reasons I am going to ask questions—and I think it is a good idea to consider as part of the process to give the opportunity to deputants to ask questions—is probably an educational function of this committee, because to me it is quite important to know if the Premier (Mr. Peterson) or the Solicitor General are not impressed with the opposition to this bill by all these groups, those diverse groups that we have heard from for so many days, what will impress them, what kind of opposition? I would like to know, number one.

Second, I would like to know why they pursue this action when it is very clear that what is going on, the option they have chosen to pursue, is politically very costly. In the long run, it is going to cost a lot to the Liberal Party. I would like to know what are the benefits that they see from this particular option that they pursue. We have not heard—

Mr. Cureatz: Mr. Chairman—

Mr. Chairman: I do not want to interrupt you, but—

Mr. Tryphonopoulos: Okay, fine.

Mr. Chairman: Mr. Cureatz—

Mr. Cureatz: To the deputant, with respect to your having the opportunity of asking one or two questions, I would like to terminate our time so there might be a moment or two at the end for you to ask one or two questions, perhaps of the parliamentary assistant to the Solicitor General, about trying to respond to some of your concerns.

Mr. Tryphonopoulos: I appreciate it. Thank you.

Mr. Cureatz: Good. Mr. Chairman, we will leave whatever is left of my time-period to the deputant to express or ask a question or two.

Mr. Chairman: All right. I do not see how that would interfere with the fairness of dividing the time. I do not see any more hands. Mr. Philip.

Mr. Philip: Mr. Hampton and I have no objections to your asking us questions. We figure it will be good practice for what we will be submitted to in three years' time.

Mr. Cureatz: Yes, that is right.

Mr. Philip: I think you make a very interesting statement on page 3, that is, that the Premier says that somehow we in the New Democratic Party have to come up to modern times. I judge that you have probably travelled through Europe. Do you consider that the European countries are any less worldly or any less modern than the United States? Do you feel that this is the direction that we have to go, the American direction, in order to be a world-class society, a modern society?

Mr. Tryphonopoulos: I hope not. Not only this, but I would like also to ask you, Mr. Philip, if any of the groups that may fight for the preservation of the Canadian cultural identity have come before the committee to make any comments or presentations with respect to this issue, because personally I feel that part of the culture is to have a good quality of life, to have a common pause day and so on. I would also like to hear from the Premier to explain how this abolition of the common pause day is going to improve things.

Mr. Philip: I have been on the committee for eight weeks. We have had groups appear before us, the same groups that opposed free trade, that have suggested it is somewhat ironic that the Liberals should pretend—although I understand Mr. Turner is now changing his position on it—they should oppose free trade and oppose becoming a satellite or a facsimile of the United States and at the same time introduce legislation. Church and trade union groups, and some business groups, have pointed that out to us. Needless to say, we have also pointed it out, but it does seem somewhat ironic that we should be talking about Canadian identity—by the same party that is doing exactly this, but then they have done that with other things. They are passing free trade in the trucking industry in another committee at this time.

You have mentioned the tourism industry and it was interesting that yesterday we had a gentleman who is involved in a product that sells very much so to tourists, namely, art work and chinaware, and yet he said that tourists will purchase on days other than Sunday, if they do not have Sunday to purchase on.

Is it your experience and your feeling that in your community that tourists will purchase those things which they purchase, usually art work, furs and chinaware, which are the major products that American tourists purchase? If they do not purchase on Sunday, are they likely to purchase them on Saturday?

1450

Mr. Tryphonopoulos: I do not know know if this is actually the case, but beyond that, how many tourists come here simply to go out shopping between one and six on Sunday? It is reasonable to say that 40 per cent of the revenues of the tourist outfitters are during the weekend. It is reasonable, but to say that they need the time from one to six on Sunday to do their shopping, it is not the same.

Mr. Hampton: You obviously understand the proposed legislation, Bill 113, because—

Mr. Tryphonopoulos: I read it, yes.

Mr. Hampton: —in reading your summary, I can see that you realize that one part of it, the part that the government wants to advertise, is that they are going to impose some heavier fines and are going to close some of the loopholes.

Quite frankly, we agreed with most of that. The salient fact that you seem to point out, though, is the municipal option. The government keeps saying that it really will not matter that much. It will not have that much of an effect. You obviously feel differently. I wonder if you could explain, most specifically for the government members, why you think the municipal option is a very big weakness in the proposed legislation?

The government's position is that we used to have the tourist option. It allowed municipalities to designate an arts and crafts store or a tourist outfitter's store as a tourist operation and allowed them to stay open on Sundays. They want to equate that sort of municipal option which was used in a very limited way.

I know some of the communities that have used it and then they have used it in a very limited way. They will designate a few stores or one street or one location as a tourist area or as a tourist operation. Yet the government wants to say, "That is the same thing as what they are doing here." We disagree with them. I wonder if you could explain how you see that municipal option working.

Mr. Tryphonopoulos: I think they are giving the domino effect, first of all. But if somebody is going to have a store open, say this is in North York or a separate city outside of the Metropolitan Toronto area, most likely somebody else nearby is going to be forced to do that in order to preserve market share.

I understand that they are considering deciding on the matter of Sunday shopping on the original basis. That is a possibility, but at the same time they say: "Do not decide. Just leave it to the municipal authorities."

Quite often, municipal officials are much more influenced by commercial interests than by the interests of workers. We have seen this [inaudible] in this province, that there is a great association of municipal politicians with developers and [inaudible] but certainly not much with respect to workers.

Mr. Chairman: Mr. Kanter. I just want to clear the floor here. I am not sure if you have 10 minutes or whether you have seven and Mr. Tryphonopoulos has three. I am not quite sure what—

Mr. Kanter: I just have a brief question of Mr. Tryphonopoulos. Then he may want to ask questions of me or indeed members of our caucus. That would be satisfactory.

Mr. Tryphonopoulos, I understand from some previous knowledge—the fact that I went to Glendon College—that you are, I believe, an economist by background. Is that correct?

Mr. Tryphonopoulos: Yes, I am.

Mr. Kanter: Certainly, while there is nothing in your brief to indicate that, I do understand you are a professor of economics at Glendon

College of York University. I do not know what specific area you teach in or concentrate on.

Mr. Tryphonopoulos: Statistics and econometrics.

Mr. Kanter: Okay. This may be a little out of that specialty, but I am aware of a book on Sunday shopping in the United States, Blue Laws: The History, Economics and Politics of Sunday Closing Laws. It is written by David Laband and Deborah Hendry Heinbuch and has a number of charts and graphs in it, supply-and-demand curves and things that I, as a noneconomist, have some difficulty understanding.

There are some concluding comments in this work, and they deal with the economic consequences of Sunday shopping in the United States. The authors compare 10 states that have Sunday shopping and 10 states that do not. Before I ask these questions, I realize that things may not be the same in the United States, for a variety of reasons. Our law is much more protective. We have a Sunday-closing framework. Economic considerations may not be the only ones or the most important ones. There are a whole lot of conditions. What I am saying is, ceteris paribus, I guess, as economists say, I am interested in your views on three statements.

The authors look, as I say, at 20 states in the United States, and they say the economic consequences of the subsidy implied by Sunday closing legislation should be clear by now. First, the general level of economic activity in non-blue-law states—I guess non-blue-law states are the Sunday opening states—is higher than it is in blue law states. As a result, there is greater labour force participation and greater employment in states that do not regulate economic activity on Sundays, which is reflected in higher per capita income in those states.

Mr. Tryphonopoulos: May I interrupt you at that point? I think that in statistics we call this spurious correlation, which means nonsense. First of all, they can manipulate data, and I do not want to assume that this is the case here.

The second thing I want to say is there are a lot of factors that may have contributed to higher per capita income, higher economic activity, higher wellbeing and so on, and this might not be due at all to opening on Sundays. As a matter of fact, I would like you or anybody who maintains that opening stores on Sunday will contribute to higher per capita income in Ontario to tell me how this is going to occur. I fail to see it.

Mr. Kanter: Perhaps I may have one more question, as I know you want to ask us some questions. Are you aware, as an economist, of any studies that have been done? Perhaps you do not like this one. It is not really fair to ask if you like it, because you do not really know it.

Mr. Tryphonopoulos: I would like to read it, by the way.

Mr. Kanter: I would like to supply it to you after this meeting and would like to have your comments on it.

We have heard a lot of people using economics during this discussion. People have said that prices would increase, that there would be fewer small businesses. Are you aware of any studies that have been done on the economic impact of Sunday shopping, either in Canada or any other jurisdiction?

Mr. Tryphonopoulos: No, I have not, but I have read a lot about the experiences that Alberta, British Columbia and New Brunswick have had so far.

Mr. Kanter: With respect to the information you have heard, has any of it been in the nature of economic studies conducted by economists or statisticians? Is there any hard data?

Mr. Tryphonopoulos: I am sorry, but I have not seen anything.

Mr. Kanter: I would just like to ask you if you could, first, perhaps review this and, second, if you could let the committee know if you can find or come across any economic information in this area. We have heard a lot of debate back and forth and I would be very interested in it. I understand you many have some questions for members of the committee.

Mr. Tryphonopoulos: Right, thank you. I would like to tell you that I know Mr. Kanter. I like him as a person and I respect him.

Mr. Kanter: Actually, it was my wife you had as a student, rather than me.

Mr. Tryphonopoulos: Yes, that is true, but still I know you. However, on the matter of this policy option, we differ.

Certainly, I am going to pose a question that I posed already; that is, if the Premier and the Solicitor General are not impressed by the opposition expressed in this committee by so many people of Ontario, what will impress them? Especially, I would like to know if they feel that these people do not really represent the people of Ontario. Do they have some other source of information about the choices of the people of Ontario? Do they have the opportunity to have a poll, a secret poll as used to be once upon a time or something? I do not know.

1500

Mr. Chairman: Should we stop there? I am not certain if that is directed at Mr. Kanter.

Mr. Tryphonopoulos: That is right.

Mr. Chairman: I am not certain he can answer it.

Mr. Kanter: I cannot answer on behalf of the Premier or the Solicitor General. I can only answer personally on the experience I have had in these committee hearings. I have been at almost all of them, travelling throughout the province. I have been very impressed by the interest that people have shown, those who have come before the committee. I think it is as a result of their representations that we are considering some changes to the bill to increase the stake, the input, the impact that people will have on this decision.

As you know, under the current bill, there is a local option. A municipal council can open a town in whole or in part. We are continuing that. You have raised, a number of people have raised, the concern that people may not have enough opportunity to have knowledge of, or input into, that decision and we are considering various ways that we can do it. The press reported today about notice and meeting provisions. There may be other ways as well.

Second, I would say that what we are trying to do as we go around these committee hearings is take a look at the communities we have been in and we have been in a number of communities in various parts of the province. We have

looked at the downtowns. We have looked at the malls. We have talked to people. We have looked at who has come. We have looked at who has not come, in some cases. In almost every community we have been in, there has been a local option in effect either in the community or nearby and in almost every case, while people might have some concerns about the concept of a local option, no one has said: "We have exercised this right for the past 15 or 10 or five or three years. Take it away." People seem to be using it responsibly. In the words of the previous deputant, she said, "Ontarians are pretty commonsense people." Ontarians are pretty sensible and I think they will be so whether the decision is made at the local level, which is easier for a lot of people outside of Metro, or at the provincial level.

Mr. Tryphonopoulos: A brief question, because I know that my time is up. What is so pressing? What makes this particular act so important that the Liberal government is pursuing it? I cannot see the benefits. Obviously, in my view, there is no support of the people. It is going to be very costly.

Mr. Kanter: I think respect for the law is the main factor that is driving this onward. I am the parliamentary assistant to the Solicitor General. For the past two or three years—I am aware of the past one—our office has been inundated every year with complaints, with concerns, with problems with enforcement. The large retail groups that have been here before us today and yesterday have been among the foremost groups saying that the current law is absolutely unacceptable.

We had a deputy here this morning; I do not know whether you had an opportunity to hear him or not. He said he is opposed to Sunday shopping, but the status quo is even worse than wide-open Sunday shopping. The status quo is totally inequitable. Let me assure you we have had a tremendous number of complaints by the public, by employers, that the current law is unenforceable, unfair, unacceptable and that has been the factor that is causing us to change it.

Mr. Tryphonopoulos: Drop the municipal option and everything will be all right.

Mr. Kanter: We hear your advice.

Mr. Chairman: Thank you very much, Mr. Tryphonopoulos. We appreciate your coming before us and the information you provided.

The next group to appear before us is the Coalition for Family Values, Paul Johnson, president, Norman Keith, legal counsel. Do we have both of you gentlemen here?

Mr. Keith: Yes indeed, Mr. Chairman.

Mr. Chairman: If you would be good enough to have a seat, perhaps the main presenter would identify the other party. Before doing that, I would tell you, if you have not heard it before, that you have 30 minutes. It is your time. We are here to hear from you and if any time is left over from the presentation, I will divide it equally among the three parties that are represented on this committee for questions, statements, relinquishing of time or whatever option they wish to take.

The only other thing I would ask you is, I noticed you had some papers there. If they get over the microphone, it will not pick you up. We have your brief, so please proceed.

COALITION FOR FAMILY VALUES

Mr. Keith: Mr. Chairman, ladies and gentlemen, my name is Norman Keith. I am the executive member and legal counsel for the Coalition for Family Values. Mr. Johnson is president of the Coalition for Family Values. You may or may not have heard about the association. It is a nonincorporated, nonprofit association dedicated to promoting the traditional family values, as we like to call them. They are, unfortunately, less and less traditional.

The coalition is made up of a group of community- and church-based organizations that promote the values I think we like to describe as traditional. In part, in the kind of concerns we have expressed, perhaps identifying them would better describe us to you. Those sorts of issues and concerns have been day care or child care concerns federally, the pornography issue, abortion, adoption services and the difficulties in that area and also the common pause day, which of course is what we are here to talk about today.

Mr. Johnson—I am going to introduce him in just a moment—is going to address from a pastoral background some of his concerns. Then we will talk about the whole tendency of this legislation to create a more wide-open Sunday and in fact eliminate the pause day.

Second, given the comments of the Premier (Mr. Peterson), which have been widely circulated and publicized of recent days, I think we want to be as realistic and as helpful as we can to the committee, perhaps in formulating some specific suggestions, which are contained in the letter, and we will elaborate on them a bit, which hopefully would be considered by the committee seriously, so that the legislation might be improved.

Mr. Johnson is a member of the clergy, a pastor involved in personal missionary work in the past, a husband and a father. He is going to address the general principle concern of more wide-open Sundays.

Mr. Johnson: Thank you. It is with a good deal of respect that I, as the president of the Coalition for Family Values, have the privilege to be here before you this afternoon to present to you a small presentation which we trust will be of help and indeed offer to you some of the feelings and opinions being expressed by those who participate with the Coalition for Family Values.

As my brother has mentioned before me, we represent a large base of different organizations, civic groups and, to a large extent, a number of church organizations and local assemblies. The voices of those people have come to us in a consistent and forthright way, in that this bill has been presented to the people of Ontario; perhaps with not altogether the best understanding but with the concept that this bill will lead to wide-open shopping on Sunday, a common pause day previously known and traditionally accepted by most organizations as the Lord's Day in Ontario.

I would like to address some of the areas briefly this afternoon. As I have understood some of the issues, a number of times we find that those issues are economic, are based around the aspect of corporations, small businessmen and other corporate entities suggesting that if they were given the option of running seven days a week, they could service the social community much more effectively, obviously with a second motive of capital gain or profits.

I realize that the committee is here giving us the opportunity to

present. This afternoon, I would like to present, as a pastor, as a father, the question, is it possible for us to put an economic price tag on the Canadian and, in particular, the Ontario family, the very basis and central core of our society and our province? I suspect that many of us, as I look at the committee today, are parents, and I realize that these past weeks you have been very busy caring about what other Ontarians have to say about this bill.

1510

The number of things I would like to suggest in the economic picture is that families are saying, "It costs so much to live now, we are already being forced into a family where two parents are working; we have very little time to spend together as a family. Our particular difficulty in this option is that employers, given wide-open opportunity through the municipal level, will soon be operating and we will have to work on Sundays. It is now the only day we have to totally spend as we would choose to with our family," possibly in many cases to attend a local worship service or services. They are concerned that these indeed will be interfered with.

Second, as parents are out working, you and I both know today the effects on the latchkey children you and I hear about, read about and with whom I have personally been involved as a pastor for several years; children who have lost their way, who are becoming more and more frequently statistics in our legal system because there have been no parents available to them because of the economics; they have been out working. Those children have come home to empty houses and found themselves in the neighbourhood burglarizing and destroying property and becoming generally little mischiefs developing into hard-core criminals.

You might say to me this afternoon: "Mr. Johnson, that is a scenario that is happening. I do not see how this alludes to this issue." The more we present the possibility of parents being removed from the presence of their children and being the head of their homes, we are ultimately putting a price tag which cannot be numbered upon the future of our present society.

We hear of the American side of the story. You know well the stories of California, the rising youth difficulties. My presentation this afternoon asks where is the source of these problems. You may say it's not in the fact that there is an opening of stores for every day of the week. You may ask what is the correlation with that. I believe personally there is a large correlation with the fact of disrupting quality, effective family time.

Another particular aspect I would like to address this afternoon is the aspect of wide-open shopping or the delivery of local option. Again, as a pastor, having been a participant in many communities as a minister, I am very well aware of how the local level is much more susceptible to the lobbying of large and small but very vocal groups than it is to be able to lobby Ontario, as we are here this afternoon; we thank you for the privilege and the opportunity of being able to input and to share with you.

But we realize that given the local option, the voice will be magnified and I am certain that the dollar factors will be far more important if we are not prepared on a social basis to guard families and the traditional values of those families. In particular, I would like to address the fact, without going into a long speech, that this country definitely was founded in Constitution with God being its head, with God being its director, and the commission and authority of all legislative bodies being directed from that particular constitutional right.

I sense, as a member of this coalition and the voices that have come to me, that there is a serious eroding in the area of the consideration of worship, religious freedoms and the representation the church as a whole is able to present to you.

This afternoon we realize that we are just a small voice of millions of Ontarians who are asking for you to retain your responsibility of upholding the law by being the lawmakers and not allowing them to be shifted wholesale to a local municipal.

This afternoon, in closing my aspect of the presentation—I am sure you have heard many, many stories—I would like for you to participate with me; as you know, day care costs escalate when parents, particularly single-parent families, need to be working and they then need to be subsidized. I think the economic picture is much larger than all that, but if you could come to some of the homes and see the stresses that are already present and realize that, as we understand these bills this afternoon—some of them do bring an improvement—part of it leaves wide open those who with a great deal of fear are saying: "I have no option. There is no safeguard. Please speak for us as a family." In summation, please consider that the economics must be compared to our social responsibility.

Mr. Keith: The fact of enunciated views on where this legislation is going has caused us to be as realistic but yet, at the same time, as principled as we can be. Nothing I am going to say is meant to derogate, take away from or diminish what Mr. Johnson has said but what it, hopefully, will do is recognize, in your eyes, that we want to have a meaningful contribution in a substantive way to the legislation such that we are not simply giving you general principles that from a legislative policy point of view may be somewhat vague or difficult to put into action. That is, hopefully, what I am going to sketch out for you.

I would ask the members of the committee to look at the letter that is our brief, in a sense. On page 2, in point form, there are our four basic submissions to the committee. Before I get into the details, the three principles that have guided us in coming to the conclusion as to what we can recommend are these:

First, we feel that the proposed legislation is not democratic enough and that one needs to improve the sense of democracy in the process that we are talking about, the local option. Second, there is too little value placed on consistency throughout the province. That screams out off the page at anyone who reads and understands it. Third, there is no statement as to what the presumption will be across the province.

Is there a presumption that municipalities will all allow wide-open Sundays or is there a presumption against that, such that there is a starting point at which the legislation has said: "This is what we are going to presume. Now you have to make a decision one way or the other"? That is a very modest, if not negligible, amount of leadership that really cries out from the people of Ontario, from this legislation and from this government. We need to know what the legislation, the policymakers and the government are saying on the local option because otherwise it is a total abrogation of the responsibility the provincial government has in this area to give guidance.

If there is no presumption one way or the other, our view is that the critics who say the government has given up all responsibility in this area are absolutely right. One would not want to quickly jump to that conclusion.

Going to the express points, those three principles that have guided us, first, our proposal is that those persons in those municipalities or geographic areas who want to have wide-open Sundays or part-wide-open Sundays and partially or completely eliminate a common pause day should go through a two-step process. The first would be that, at minimum, 10 per cent of eligible voters in that region would sign a petition, a statement of desire, saying, "We want to have some expanded form of shopping retail access on Sunday or wide-open Sundays."

If that minimum threshold, if even just 10 per cent want it, then bring it to the attention of the electorate in a public manner in conjunction with municipal elections, the idea being that when other issues are being debated, when candidates are putting their position on the line at a municipal level as to why they should be elected over their competitors, then one has a chance to know where people stand and to vote intelligently, not only as to an individual, but also as to a policy. We think that if adopted, that first suggestion, that two-step process is going to increase the democratic nature of what is suggested in the bill.

1520

Second, under Bill 113 regional governments, rather than their member municipalities, have jurisdiction over the possible implementation of local option. For the sake of consistency, and this is our second principle we would ask you to consider, the same jurisdiction should be vested in county governments rather than in member municipalities.

As we go on to point out in the next paragraph, whether this committee has seen it or even assumes that there might be, there is a tendency out there—it is rather obvious, but none the less a tendency—in any particular municipality or any particular region to compete for the tax dollar of the store. To have some consistency in the manner of applying local option, I think our particular recommendation 2 is going to at least minimize the effect.

Municipalities that have difficulties with their revenue are going to be less tempted, less faced with the prospect of attracting businesses to them because they are going to be allowing them to open on Sunday, if that is what they want to do. That should be less of a concern and keep the principle behind what the legislation is trying to do a little more pure than allowing other interests, such as increasing revenue at local municipal levels, being a primary concern as to why Sundays are wide open or not.

Third, the point in the third paragraph is that the committee should remove from the bill this reducing or opting out of penalties. What I am talking about, in particular, is subsection 7(2). You have probably read or memorized this, so I do not need to take you through it, I am sure. Very interestingly, and this is where I suppose a legal perspective comes into play, one sees that the penalties set right now by the province are going to be increased for violating the act. That is to put, I suppose, more teeth in the legislation.

The interesting difficulty, in reading subsection 7(2), is that the municipality may not necessarily have any minimum threshold of a fine for a person who violates the law. In other words, although the fine cannot be more than \$50,000, there is nothing to say there is a minimum. For whatever reason, a municipality may, through its bylaw enforcement officer, slap a very modest \$5 fine on a very major retailer that really makes a joke and a mockery of the legislation. For consistency, and to make the legislation realistic, one has

to talk about a minimum, a consistent minimum throughout the province, so that if there are violators of the local-option approach, they are treated fairly but also firmly, fairly in the sense that a violator in one municipality, in Sudbury is not going to be fined somewhat more than perhaps somebody in Metropolitan Toronto or vice versa.

In trying to say that we think consistent treatment is an appropriate guiding principle in any policy, and especially this legislation because it is province-wide, there should be a minimum fine written into subsection 2 or whatever other appropriate part of the legislation is necessary, such that people are treated fairly when they follow the act but also when they violate it or attempt to violate it.

The fourth paragraph—and we are sort of skimming over these quickly, but we do have limited time—is perhaps a little less obvious to people other than persons who come to life with a certain set of religious or philosophical values, who value things other than how much they are earning, what their job is or what kind of car they drive. Whether it is an increasing or a decreasing trend, there still are a number of people, many of whom we are representing in the coalition, who say there are more important things than just an economic bottom line, be it personal or corporate.

As a result, people with values that are perhaps as important or more important to them than necessarily earning a few extra dollars because they work on Sunday are going to want to exercise, if this is still in a sense a free country, the right not to work on the pause day, the Sunday that is their day of rest because of a philosophical family choice, perhaps, that may not be religiously motivated, or a religious value.

There purports to be in the legislation some provision for that. Unfortunately, the exceptions are almost broader than the rule. When one looks at section 39k of Bill 114, one realizes that not only several Mack trucks have driven through the legislation as the rule in allowing people not to have to work, but also that it is quite frightening in the implications for what it says to people who hold religious values. That will very likely be subordinated to the economic wishes of the employer.

Let me get a bit practical. As an employment lawyer, we deal all the time with problems of reasonable accommodation for religious beliefs. People from the Seventh-Day Adventists faith do not want to work on Saturday. What does an employer have to do? I think the people from Sears who are going to speak after us have a great deal of personal experience, all the way up to the Supreme Court of Canada, on this very issue.

They can tell you that it is a thorny issue, irrespective of what view you are taking—the employee's or the employer's. It has created a whole bunch of litigation that, quite frankly, really only the lawyers have probably profited from.

That is not the way to go. The way to go is to fairly clearly and straightforwardly define what a person has a right to object to. If you look at section 39k, if you are covered by a collective agreement with a rotating shift or if you are covered by a union, in other words, then you do not have any choices. You have to work no matter what you believe.

You have the other problems of the history of the work relationship in clause 39k(2)(d). What does that mean? You are going to have case after case and fight after fight. There is only one consistent loser in all of this in a

big way. That is going to be the person who had to either lose his or her job or compromise his or her faith, values or philosophy.

Our concern—and that comes to the fourth recommendation—is that not particularly from any religious tenet or religious point of view, but recognizing religious and philosophical values about the importance of things other than income and work, one has to be more specific, clear and firm in the protection of those individual rights, which very much complements and dovetails with what Mr. Johnson talked about. From a pastoral experience, he has seen with people who have too much of their lives already ruled out of family time and have very precious little time left.

I think that proposal, point 4—and I leave it to your reading for the specific details—is a reasonable one and certainly addresses the coalition's concern that the exceptions in subsection 39k(2) are really so broad that they render any respect for traditional family values and religious values very meaningless.

That is an unfortunate statement, directly or indirectly, on the part of the government in promoting and proposing such legislation, such that whether it is intentional or not, we would ask them to take stock of it now and to seriously look at better protecting the rights of those affected.

Mr. Chairman: We have six minutes left. Mr. Cureatz has two minutes, Mr. Philip and Mr. Hampton share two minutes and Mr. Chiarelli takes two minutes.

Mr. Cureatz: As a humble solicitor from Kendal, Ontario, I do my best to try to wind my way through the difficulties of this large, Liberal majority government, as I sit here intimidated by all of you. I can say to our witnesses, you were not intimidated whatsoever. Pastor, we appreciate your coming forward. In two minutes it is so difficult to get involved in the various aspects that you bring forward.

I just bring to your attention that it is interesting that looking at our agenda this afternoon, at two o'clock we have Lansing Buildall, representing large business, at 2:30 an academic and yourselves, the Coalition for Family Values.

Within an hour and a half, approximately, we have had a kaleidoscope of various groups right here in the committee, representing people from across Ontario who are against this legislation. Time and time again it behooves me to no end to try to figure out who is in favour of this.

As the previous witness said, "Why in the world are they pushing this darned thing?" Heaven—and this is your jurisdiction, pastor—knows.

I just want to bring out the quality of life aspect and, more particularly, an area I actually had not centred on. I think I gathered, if you will just respond to it in the moment we have, that you indicated the dramatic disruptiveness this will cause, and you related about the latchkey children, etc., on the quality of life of the family unit in Ontario.

I think I followed you to the step that it would be more appropriate to fine-tune existing legislation than it would be to go off on a tangent with Bill 113 and Bill 114. Do you feel comfortable with that interpretation?

Mr. Keith: Certainly.

Mr. Philip: When I was listening to your brief I remembered— I happen to like certain types of junk food. I once asked a doctor who specialized in holistic medicine how much of a certain chemical I could take without it causing cancer. He said, "You know, the onus should be on the company to prove that it will not create cancer for you, because what can cause cancer in you may not cause cancer in someone else, and each of us have different tolerances."

What I hear you saying is that the family is under all kinds of pressures and we do not know whether this may cause more pressures on one family than on another. The onus should be on this government to prove it is not going to create problems for the family, rather than have the onus on people like you, as the Liberals always say, to prove it is going to cause a problem for the family. It is very difficult to do. Maybe the onus should be on them the same way the onus should be on the chemical companies before they add those chemicals to some of the foods we eat to prove it will not cause problems rather than the reverse. Would you agree with that?

Mr. Johnson: I agree with you. In response, I believe that if we were careful to observe, we would realize the disintegrating trend already. I think there is substantial evidence to be read and understood which already demonstrates a disintegration in the area of family values and the home. This, I believe, is just a further step to erode it.

Mr. Hampton: You were in the room when the last deputant was here and asked why the government felt it had to change the law. I believe Mr. Kanter said we have to change it to promote respect for the law and to make it more enforceable, yet we have in the bill, as you pointed out, subsection 7(2), which would allow a municipality to vary the legislation any way it wants to make it laughable, to make it less enforceable, to make it unpredictable. What do you make of that, in view of the government's stated goal?

Mr. Keith: Obviously, I cannot speak to the government's intentions, but the obvious result, unfortunately, unless there are changes, is just a complete abrogation of the responsibilities in this whole area, even with some minimal level of consistency across the province, which is frightening.

Mr. Chairman: Mr. Chiarelli, two minutes.

Mr. Chiarelli: We cannot cover an awful lot in two minutes, but I do want to say that I gather you fear wide-open Sunday shopping and you believe it is going to come from the local option. There are people who have been before this committee who do not know or who fear just the opposite. For example, yesterday Tourism Ontario, representing a very wide coalition of people in the tourism industry, expressed the opinion that the local option would in effect close them down in a lot of areas.

This government has no intention to create wide-open Sunday shopping. It has argued the case for local option for a number of reasons. Hopefully, wide-open Sunday shopping will not occur and your fears will not be realized.

What I do want to say is that I certainly appreciate, as a member of this committee, and I am sure my colleagues do, the very constructive suggestions you have made. Very frequently we have seen deputants come before us, such as the Coalition Against Open Sunday Shopping, and spend 30 minutes

making political statements with no constructive suggestions. I see here that there are a number of constructive suggestions we can look at, and which I believe we will accept, in some cases.

For example, about your comments with respect to opting out of penalties, I am prepared to argue in committee that this should be adjusted. I think there should be a process of some kind, and we are looking at that. I am sure that when we get into clause-by-clause, the bill will end up with some process that will allay some of your concerns.

With respect to the suggestion to go to county government, I am prepared to look at that, but it has some problems. I would like to ask Mr. Keith particularly, in the very short time available, how he would deal with the issue where you have a town or city which is not part of a region in a county. It raises some real, serious concerns. If we can deal with that particular issue, quite frankly, I am prepared to recommend in committee that you do go to county government, but that creates a lot of problems, and we simply may not be able to do it. In conclusion, I do want to say I appreciate your positive suggestions, and I am sure that some of them will find themselves in the act.

Mr. Chairman: Perhaps you would like to respond to that by way of writing to the committee. There is no time, and I am sure that is a question that cannot be answered yes or no. We appreciate your coming forward and sharing the information with us and also the constructive suggestions. Thank you very much.

Mr. Keith: Thank you.

Mr. Chairman: The next group to appear before us is Sears Canada Inc., C. R. Sharpe, chief executive officer; J. J. M. Eagan, vice-president, general counsel and secretary, public-government affairs, and Ann Larsen, corporate general manager, public-government affairs. I think we know who Ann is, but perhaps the two gentlemen could identify themselves for purposes of Hansard.

Before doing that, I will just tell you, if you were not here, you have 30 minutes. It is your time; we are here to listen. If you choose to use the full 30 minutes for your presentation, that is your prerogative. If there is time left over, I will attempt to divide it equally among the three parties represented on this committee, and they will then ask you questions, make statements or whatever. That is the way it works. We have your brief, so perhaps whoever is going to present it would like to introduce the parties and then proceed.

SEARS CANADA INC.

Mr. Sharpe: My name is Richard Sharpe. I am the chairman and CEO of Sears Canada. On my right is Michael Eagan, whose submission you have there. He is the vice-president and general counsel for our company, secretary and also vice-president of public-government affairs. On my left is Ann Larsen, who is corporate general manager of our public-governmental affairs department. Before Mr. Eagan presents our brief—and our plan is to take approximately half our time on the presentation and have half the time for dialogue with the committee—I thought it might be helpful for me to give a bit of a thumbnail overview of Sears Canada in Ontario.

We are big. I am not saying it to brag about our size, but merely to

state the impact that we have on this province and that the province has on us. We have 30 department stores in the province. We have catalogue sales offices, which you are probably familiar with, in virtually every hamlet throughout the province, some 420 of those. We buy from Ontario manufacturers—these are 1987 full-year statistics—just over \$759 million, at cost, merchandise. We pay taxes within the province of \$36 million. We have 24,000-plus employees.

We have a payroll here of \$383 million. We spent \$4.7 million last year on our retail advertising in this province, and we distributed over 21 million catalogues at a cost of about another \$40 million. If you put all that together, we spent \$1.25 billion in this province in 1987, so we are a very significant participant in the health and vibrancy of Ontario. With that as a brief background, I will ask Mr. Eagan to present our brief.

Mr. Eagan: Thank you for affording us the opportunity to address this committee today so that we might express the views of Sears Canada Inc. on the controversial Sunday shopping issue and, more specifically, the proposed amendments to the Retail Business Holidays Act currently under study by this committee.

Let me begin by stating that there are advantages and disadvantages to appearing before the committee towards the end of your hearings. The major disadvantage is that much of what we will put before you has been said before. For your benefit, we will therefore attempt to be succinct and to the point. The advantage, on the other hand, is that we will add our fairly loud voice to the wide cross-section of organizations and individuals, representing hundreds of thousands of Ontarians, that have urged the government to withdraw the proposed amendments to the act and to go back to the drawing board, once again, within the framework of the existing Retail Business Holidays Act.

1540

As Canada's largest single general merchandise retailer, we operate 31 retail department stores and over 400 catalogue-selling units in Ontario, which, as Mr. Sharpe has said, generated net sales in excess of \$1.6 billion in 1987. Over 24,000 "real" Ontario people work for us either full-time or part-time, and it is with this collective voice that we speak today.

It is our intent over the next few minutes to focus on three areas. First, we will provide you with some background of our corporate stance on the Sunday shopping issue; second, we will cover our response to the government's announcement of the proposed legislation; third, we will share with you our experience from the western markets where we have been open on Sundays and, finally, we will leave time at the end for any questions you may have.

Our position is that we have consistently been opposed to wide-open Sunday shopping, other than for essential goods and services, and strongly in favour of a provincially regulated common pause day. At the same time, we have made it quite clear that Sears will open its stores if forced by the competition to do so.

We assumed, as did many others, that the government would work within the principles established by the two previous legislative committees, the Progressive Conservative task force on extended shopping hours in 1986 and the government's own select committee on retail store hours in 1987, both of which recommended against wide-open Sunday shopping and that a common pause day be retained in Ontario.

The introduction of Bill 113, shifting the regulatory responsibility from the provincial to the municipal level, quite frankly surprised us. Why? Simply because this bill automatically wipes out a common pause day for our employees and their families, who enjoy it currently, and will, we believe, lead to wide-open Sunday shopping, confusion and chaos for consumers and business as over 800 municipalities attempt to set their own rules.

This proposed legislation, while, we are sure, drafted with good intent, goes against the fundamentals of our corporate position, as well as the recommendations of the two previous legislative committees, and we adamantly oppose it. Sears recognizes that the current Retail Business Holidays Act is not perfect, but we have always stated our belief that within its framework can be found the solutions to the existing loopholes and abuses. To simply throw it out in favour of a local-option approach is, in our opinion, a complete abdication of responsibility on the part of the provincial government.

Sears's response to the proposed amendments is that we joined forces with the Coalition Against Open Sunday Shopping and we have been an active member, along with over 300 organizations, dedicated to convincing the provincial government to retain the Retail Business Holidays Act as the governing legislation and to abandon the proposal to leave the decision to municipalities.

In April, Sears embarked on a program, both internal and external, to inform our employees and customers of our opposition to Sunday shopping and the proposed municipal option, centred around six major concerns.

First, Sunday shopping means Sunday work, which negatively affects the quality of life of those who would otherwise spend time with their families and friends. Granted, people in essential services or the service industry work on Sunday, but we question the government's seeming lack of concern for its social responsibility by introducing legislation that would unnecessarily deny an even greater segment of Ontarians this opportunity.

As a case in point, just this past Sunday, over 10,000 "real" Sears employees and their families from across Ontario gathered for a day at Canada's Wonderland for the fourth consecutive year. The importance of Sundays to their lives was clearly conveyed in their resounding applause when told we would be appearing today on their behalf before this committee.

We believe that if Sunday shopping became widespread, which it could under Bill 113, it would quickly impact on other businesses that supply goods and services to retailers. You have heard the ripple effect theory too, but let us add our voice to the fact that as Sunday shopping becomes a way of life, requirements for additional transit, day care, banking and delivery, just to name a few, will increase until it is conceivable that Sunday will become just like any other day of the week. Where will it end?

There is very little evidence that consumers want Sunday shopping or need more than the 70 to 80 hours that are currently available to shop. As for the weekend tourist argument, we would suggest there are plenty of world-class attractions in Ontario to keep them busy on Sunday without wide-open shopping.

The introduction of open Sunday shopping will not increase the total amount of disposable income available to be spent on general merchandise. Therefore, there will be no economic gain but merely a shift in balance of sale by day. On the other hand, retailing is a highly competitive business in which no one can afford to stay closed if legitimate competition is open.

We believe that Sunday opening will further complicate the serious problem retailers are currently faced with in attracting competent, skilled part-time workers, particularly in large metropolitan areas of Ontario. This could lead to reduced levels of customer service. We ask: Why stimulate an already overheated labour market?

We believe that if left to municipalities, it will quickly become a matter of necessity to match the practice of neighbouring communities and the much-discussed domino effect will become reality, in southern Ontario particularly.

On April 9, we placed a newspaper ad in 11 Sears retail markets in Ontario, inviting the public to join us in our campaign against Sunday shopping. Over 14,000 customers took the time and went to the trouble to clip out the coupon, fill it out and return it to a Sears store from where the coupons were sent to Queen's Park. How many others were clipped out and sent directly we will never know. At the same time, thousands of Sears employees wrote personal letters to their MPPs at Queen's Park voicing their opposition to Sunday openings and their concern about having to work on Sundays and urging the Ontario government to act to maintain Sundays as a pause day, controlled and enforced at the provincial level.

We believe our campaign and many like it helped turn the tide of public opinion as people began to recognize that the issue was far greater than shopping on Sunday; it was working on Sunday.

Because of our fundamental opposition to open Sunday shopping and therefore to the local option clause of Bill 113, we have devoted our energies today to these broader issues rather than to the balance of individual sections within Bills 113 and 114.

However, we must applaud the government for its actions in attempting to address a historical problem with the current act. We endorse the principle of increasing the penalty which could be applied to those breaking the law, to a level which would unquestionably deter unlawful openings, augmented by the ability to administer a court order immediately. This is, in our view, a progressive step and could be administered provincially within the existing framework.

It is our hope that the knowledge we have derived from our practical experience with Sunday openings in the west will be of interest and assistance to the standing committee on administration of justice in its future deliberations on this issue.

Sears currently has 12 stores open on Sundays in the western region: seven in Alberta and five in British Columbia. We have studied the performance of these stores individually, collectively and against non-Sunday stores in every conceivable statistical manner since first opening there in November 1984.

While many results are mixed due to the variable factors that affect individual stores and markets, we can conclude that there is absolutely no evidence that opening Sundays has accomplished anything but to shift the balance of sale from other days of the week, particularly Saturday and Monday, into Sunday.

We can also conclude that even though Sunday openings have not increased our business, we have prevented loss of market share in an extremely competitive, over-stored, tough economic environment.

1550

From an operating standpoint, we are confronted with additional payroll costs and reduced supervision during the balance of the week as management hours are spread over seven days rather than six. Another reality is increased maintenance costs, specifically in cleaning and energy to cover lighting and air-conditioning. Our experience would indicate that wide-open Sunday shopping makes no economic sense. The same business is spread over more hours for all retailers at higher costs, which inevitably leads to either higher selling prices or reduced services.

The Solicitor General, in her April 14 paper introducing the Retail Business Holidays Amendment Act, acknowledged the role of legislators to review the laws that are not working, to identify the problems and to fix them in order to ensure the people of this province fair, enforceable standards to guide their actions.

She went on to say, "The law needs to be workable and reflect the values and traditions of the people." We agree wholeheartedly and would draw attention to the most recent Gallup poll, conducted in early April, which indicates that 50 per cent of the people of Ontario are against Sunday shopping and that 71 per cent of the people want a uniform law for the whole province.

The groundswell of opposition to Bill 113 would appear to be growing. The Association of Municipalities of Ontario is vehemently opposed, and 95 per cent of those who have made presentations to this committee are opposed. The local option cannot possibly be fair to all and certainly would not appear to reflect the values and traditions of the majority of the people.

In closing, Sears Canada has nothing to gain by opening Sundays and our employees have everything to lose if we are forced to do so. We ask this committee, on behalf of our employees, to recommend that the government halt the erosion of the quality of life of its citizens by withdrawing bills 113 and 114 and that the existing act be amended to incorporate increased fines augmented by enhanced means of enforcement, along with other fine-tuning. That will result in fair, equitable, provincially regulated legislation.

Finally, we recommend that this committee listen to the voice of the majority of the people, who would appear to be opposed not only to this legislation but to the whole issue of wide-open Sunday shopping in Ontario. Thank you once again for the opportunity to add our voice to the many others who have appeared before you in opposition to the proposed legislation.

Mr. Chairman: Thank you very much. I presume that is the extent of the presentation?

Mr. Eagan: It is.

Mr. Chairman: We have 13 minutes, which is four minutes and 20 seconds per caucus. I recognize Mr. Philip of the NDP first, and Mrs. Cunningham next.

Mr. Philip: Thank you for a very interesting presentation. Particularly, I want to thank you for giving us your experience in western Canada. The opposition parties here tried to have a representative of the municipalities from western Canada appear before the committee. The Liberals used their large majority on this committee to see that we did not get that

kind of nonpartisan information. They wanted somebody to come from the government of that great Liberal Premier Bill Vander Zalm, but not somebody from the municipalities to give us an objective assessment of what happened.

Mr. Chairman: I do not want to interrupt you, but I think, to my recollection, it was—

Interjections.

Mr. Kanter: I was going to rise on a point of privilege when he said that Bill Vander Zalm was a Liberal. I thought that was very offensive.

Interjections.

Mr. Philip: He was a Liberal candidate and he is acting exactly like the present Liberal government—

Mr. Chairman: Mr. Philip, go ahead.

Mr. Philip: I want to ask you this, though. You talked about extra costs. I wonder if you have been able to put an extra cost as a result of your experience in western Canada. What is the extra cost to you as a corporation percentagewise, or any other way that you can figure it out as a result of being open that extra day?

Mr. Sharpe: I think the best that I can give you at the moment is that it would appear that our cleaning and general maintenance costs have been increased by about 10 per cent, whereas our energy consumption costs have gone up about three per cent. Does that agree with your figures?

Mr. Eagan: That is correct.

Mr. Philip: What would that be in total percentage of operating costs? Do you have any idea?

Mr. Sharpe: No, I cannot give you that off the top of my head, but I will volunteer this. If anyone would like to examine the operating statements of stores that are open against stores that are not open, in all good confidence, we would certainly be happy to expose that information if it would assist you in arriving at a better-founded decision.

Mr. Philip: I think what would be useful for us would be if you could give us comparisons in percentage terms rather than giving us dollars and cents which might be of some use to your competitors. We do not want to do that kind of thing. Mr. Hampton, I believe, has a question and then maybe I will come back on.

Mr. Chairman: We will see.

Mr. Hampton: Historically, are you aware of how wide-open Sunday shopping occurred in British Columbia? Are you aware of the sort of motions and commotions that the area around Vancouver went through?

Mr. Sharpe: Yes. These were the communities divided down the middle of a street sort of a thing, where one half is open and one half is closed, and then it tumbled across the street. It gradually swept through the lower mainland. That is basically what is open in British Columbia. It stopped at the water. It did not get over into Victoria. It did not get up to Prince George because it was too far—

Mr. Cureatz: The Liberals think they walk on water.

Mr. Sharpe: I think it is only reasonable that in a densely populated area—the communities are divided by streets usually—that they are going to for ever run into this problem. We refer to this—you know, it gets tiresome with this domino thing, but in the Golden Horseshoe area I think we would just see the dominoes roll over.

It is a step to Brantford. That would happen because the media spills over. Then it is Kitchener and then it is London; then it is Chatham and then it is Detroit-Windsor. I think that southern Ontario pretty much—certainly from Oshawa, right around and down into the southwest corner of the province—would probably be gone almost immediately.

The more remote areas that do not have the same media spillover, where it is inconvenient for the customers to travel the distance they would have to, would be much slower and perhaps never come in. But, generally speaking, where the the lion's share of the business is done, it would be wide open.

I will stop there. I think you have heard everything that could be expanded on that.

Mr. Philip: Have you had problems with of employee turnover, that is, employees leaving for other sales positions or other industries as a result of Sunday shopping?

Mr. Sharpe: It is a two-edged sword. One is that yes, we have had people leave because they did not want to work. They only work one Sunday in the west in four or five, I am not sure which. But it is one in a month roughly. Recruiting is very difficult.

The retail industry needs seven days? No way. We need competent, well-educated people in our organization, as well as the financial institutions and so on. There is just no way that an organization or an industry that is open seven days a week is going to attract people if there are other opportunities.

Mrs. Cunningham: I am Dianne Cunningham. I was recently elected in a by-election in London where the Sears stores helped us out quite a bit. So thank you very much.

We had petitions in their store and we have been able to read them in the House since. They were effective. On that note, you used the words, "better-founded decision." You were willing to open some books for this Liberal government to look at. I can assure you, you are in the business world and you are accountable to your board of directors. The Liberal government does not seem at this point of time to be accountable to anybody. I do not think it is very concerned about it.

The point they made is that they are not impressed or worried that the anti-Sunday shopping briefs are outnumbering the others by a 20-to-one margin, and they are prepared to take whatever heat the anti-Sunday shopping forces can direct at them.

The unidentified spokespersons are making these comments. But Mr. Kanter, at least, had the guts to say that such people, the real people, who were not able to appear before the committee, are not as organized and as vocal as the churches, unions and small business groups who have mobilized against the bill.

Mr. Kanter does not think that there will be any more Sunday shopping immediately, and certainly not three years down the road, than there is now. I would like you to take this opportunity to speak to this quality-of-life issue and the way you see Ontario three years down the road if, in fact, this bill is passed in its present form.

1600

Mr. Sharpe: I think I described what would happen in southern Ontario quite quickly, and it would be a lot less than three years, in response to Mr. Kanter's forecast of the store openings.

For the most impressive temperature-taking of the real people that you refer to, I go back to the comment, just a couple of lines that were used in Mr. Eagan's presentation, where he spoke about our Sears day at Canada's Wonderland this Sunday, the day before yesterday. It is not as though Sears takes all its people there at no charge. They have to pay \$7.50, although it is \$19.50 or \$19.95 or something at the regular price.

We have over 10,000 Sears employees come in from as far away as Thunder Bay, from Ottawa, from Kingston and Chatham and Sarnia to be together. They have their families and so on, we invite the retirees and we really have a great day. It is a great day. This is the fourth year we have done it. I get a chance to chat with them. I know most of these people. I have been in this company for 38 years, and so the retirees and I are pretty much in the same crew. It is the newer ones I do not know.

The three of us were there, involved on Sunday, and I told them that we were going to be making this presentation today. I did that in two different groups, and there were big amphitheatres in both cases. If you know Wonderland you know there are the two big theatres there, and they hold about 1,200 to 1,500 people each. They were filled with Sears visors. The roof just went off, you know? I wish we had a tape. In fact, we said we could dispense with our printed material, bring the tape and just let them hear me make a few sentences about being here and point out the fact that if we had Sunday shopping, our Sears day, our Sunday at Wonderland, would be finished.

That is the effect on the quality of life. Do I need to say any more?

Mr. Cureatz: I am going to have the opportunity in about 30 seconds. I can see the chairman looking at me grudgingly, and I want to say that I am just a humble little lawyer from Kendal, Ontario, slightly reserved and remorseful, intimidated by this large, nasty Liberal government.

I am going to be interested to hear Mr. Ballinger tell us about his retail experiences with the eminence of these witnesses before us. I want to say to all of you, and particularly to the counsel, that the only way you are going to stop this is by speaking to the Premier (Mr. Peterson) personally. You have the kind of influence and muscle that this government and this Premier are going to understand because, as our press indicated this morning, the Solicitor General (Mrs. Smith) has said that local option is not going to change. You have made no impact on this committee. You, sir, have to call the Premier's office. Would you do that, please?

Mr. Chairman: Thank you, Mr. Cureatz. You have had more than the 30 seconds; your introduction was 30 seconds' worth.

Mr. Chiarelli for four minutes and 20 seconds.

Mr. Chiarelli: I address my comments to either person. I think the second week the committee was operational we had the chief executive officer of Shoppers Drug Mart before us. I am quite concerned about the position of employees in this legislation, and we are trying to look after that particular issue. I asked him whether or not he had any trouble in terms of hiring people or complaints from people. He indicated that with the 10,000 employees in Shoppers Drug Mart—as you are aware, they are open on Sundays in a very widespread manner—they did not have any trouble hiring or retaining people and they did not have to force anybody to work. Essentially, a lot of their employees were part-time and they were students who were very happy to do that.

I would like you to compare that statement and perhaps be instructive to us as a committee on what your experience has been in the western provinces where you have had to open stores.

Mr. Sharpe: Mr. Chiarelli, let me just make one suggestion. If any of you walk down through the Eaton Centre or virtually any of the shopping districts in the core of Toronto, probably 80 per cent or more of the shops have a sign in the window saying "Full- or part-time help wanted." We know that unemployment in the horseshoe area of this province is somewhere in the three per cent level, which is probably bedrock. Whether or not you open on Sundays, it is very difficult to get people now. We have problems operating six days a week. I cannot comment on Shoppers Drug Mart's situation.

Mrs. Cunningham: They have a sign in the window on Bloor Street right now.

Mr. Sharpe: There is a great shortage. That is one of the points we make in our brief.

Mr. Chiarelli: From the economic side, we can talk about a shortage, but in terms of quality of life, I am more interested in that particular issue as it applies to employees. Have you had to coerce people to work on Sundays?

Mr. Sharpe: When we first started opening the stores in western Canada in 1984, we did not have a problem; people volunteered to work. It was a novelty. For some reason, they were quite happy to work. But the interest level trickled down and it has not been easy. Voluntary working is something we still have kept within the corporation, but the schedule is posted several weeks in advance so that the employees can see when they work. As I pointed out, they do not work every Sunday. It is either four or five Sundays before they are due on again. They do not like working on Sunday, but they realize that it is one day out of the six.

Mr. Chiarelli: What would be the profile of the person who is more interested in working on a Sunday?

Mr. Sharpe: I really have not looked at that. I can speculate and I know what you are getting at, but I really do not think I should answer because I really do not know.

Mr. Chiarelli: To what extent, generally, do you have part-time?

Mr. Sharpe: About 50 per cent.

Mr. Chiarelli: Presumably that would apply on Sundays as well but perhaps to a little bit larger percentage on Sundays.

Mr. Sharpe: Higher on Sundays.

Mr. Chiarelli: I would like to address my questioning to another area, perhaps to Mr. Eagan. In one of the presentations this morning, which was fairly long—I think there were 20 points, essentially all critical of this legislation—there was one sentence indicating that the tourism issue could easily be dealt with. I note in your brief here, which is fairly lengthy and well thought out, there is one sentence: "As for the weekend tourist argument, we would suggest there are plenty of world-class attractions in Ontario to keep them busy on a Sunday."

As you are probably aware, the select committee had trouble dealing with the question of tourism. In my opinion, they swept the issue under the carpet and said, "Let somebody else decide that issue down the road and define it." The Ministry of the Solicitor General tried to and was under the impression that it was too complicated to do.

Mrs. Cunningham: They tried really hard too.

Mr. Chairman: Your time is running out.

Mr. Cureatz: Why isn't the parliamentary assistant doing it?

Mr. Chairman: Mr. Cureatz, I had said before that interjections are out of order.

Mrs. Cunningham: They tried so hard they asked no one.

Mr. Chairman: This is Mr. Chiarelli's time. Let's give it to him.

Mr. Chiarelli: She always interjects when I talk about tourism because she knows she is on the hook to come up with a definition, which she cannot do.

Mr. Chairman: I will deal with the interjections.

Mr. Philip: No, no. You are on the hook. You bend over. We will take over the government. We will show you how to do it. If you cannot do it, get off and we will take over.

Mr. Chiarelli: It is interesting to note that in one of the most significant areas of this issue, including previous committees and this committee, so little is dealt with, of such a substantive item, by the people who are making presentations. Do you have any idea how to define tourism?

1610

Mr. Eagan: We are particularly concerned with the essential services issue. From that perspective, we are in favour of essential services.

Mr. Chiarelli: Is tourism an essential service?

Mr. Eagan: As far as the tourist industry is concerned—and let me take Harbourfront as an example, because it is pertinent to the city of Toronto—we would be of the opinion that Harbourfront should not be open on Sundays. In our opinion, it is not an essential service.

Mr. Chiarelli: What about Niagara-on-the Lake? Niagara Falls?

Mr. Chairman: Gentlemen, I thought we were asking for a definition of tourism. I am going to have to stop. The time has been equally allocated to all of the members and we have run out of time. The only way that can be enlarged is with the unanimous consent of the members of the committee and if I hear that I will enlarge it, but if I do not hear it, I will not enlarge it. Not hearing it, we thank you for coming before us. We appreciate your input.

Mr. Cureatz: Wait a minute. We could just carry on at great length.

Mr. Chairman: Just a second. I do not hear unanimous consent, Mr. Cureatz.

Mr. Cureatz: The Liberals are afraid; is that it?

Mr. Chairman: I have not heard it from all three parties.

Mr. Philip: I am willing to give unanimous consent as long as Mr. Chiarelli asks the questions.

Mr. Cureatz: That is right. I agree to that and let the parliamentary assistant tangle with these guys about how great this legislation is.

Mr. Chairman: I still do not hear unanimous consent. I want to thank you very much.

Interjections.

Mr. Chairman: I have listened to you people all along. I think maybe I could get an opportunity to thank these people who came here voluntarily to help us.

Thank you very much. We appreciate your input and you have given us something to think about and we appreciate you coming forward. We can give you back that sign since I notice attached to your brief is a copy of the sign itself and each member has that.

Mr. Sharpe: Thank you. If we can be of any further assistance at Sears, we would be very happy to participate in any way you would like us to.

Mr. Chairman: There is one thing perhaps I would ask. You referred to a study in your presentation. Can a copy of that be made available to the committee? You said there was a study on statistics. I cannot remember exactly what it is.

Ms. Larsen: You could be referring to the ongoing studies we have done in regard to the western markets.

Mr. Chairman: Were they done in writing?

Ms. Larsen: We have most of the statistics. The difficulty is, as I think Mr. Sharpe alluded to, that because of the wide number of variations which apply to individual stores it is very difficult for us to be able to say conclusively from those studies anything about actual profitability on Sundays.

Mr. Chairman: I see.

Ms. Larsen: However, we did bring forth the two conclusive pieces of evidence they do show at this point.

Mr. Chairman: Okay. Thank you again. We appreciate it.

Mr. Eagan: Given the choice, we would close out west. After being open four years, given the choice we would close this Sunday.

Mr. Chairman: Okay. I do not want to get in trouble with the members of my committee.

Mr. Eagan: I think it is a significant point, though.

Mr. Chairman: I appreciate your concern. Thank you very much. The next delegation is that of Gabriel Nemet. Do we have Gabriel Nemet here? I am having the clerk check outside to see if our four o'clock delegation is here. I am told that the four o'clock appointment is not here. There being no further business before this committee, we stand adjourned until 10 o'clock on Tuesday, September 27, in this room.

The committee adjourned at 4:15 p.m.

CAZEN

2014

-378

J-32a

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT

Tuesday, September 27, 1988

Morning Sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew—St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Philip, Ed (Etobicoke—Rexdale NDP)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

Ballinger, William G. (Durham—York L) for Ms. Poole

Collins, Shirley (Wentworth East L) for Mr. Keyes

Cunningham, Dianne E. (London North PC) for Mr. Sterling

Farnan, Michael (Cambridge NDP) for Mr. Philip

Marland, Margaret (Mississauga South PC) for Mr. Cureatz

Clerk: Deller, Deborah

Staff:

Swift, Susan, Research Officer, Legislative Research Service

Witnesses:

From Designhaus Interiors Inc.:

Lock, Janine, Owner

From the Downtown Brampton Business Improvement Area:

Bennett, Charles, Chairman

From Marks and Spencer Canada Inc.:

James, Tim, Store Operations

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday, September 27, 1988

The committee met at 10 a.m. in room 151.

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT
(continued)

Consideration of Bill 113, An Act to amend the Retail Business Holidays Act, and Bill 114, An Act to amend the Employment Standards Act.

Mr. Chairman: Mrs. Lock, perhaps before you start with your presentation, you would identify the person to your left or right, whatever the case may be. I would advise you that you have 30 minutes. That is your time. We are here to listen to you. If you choose to use all that time for purposes of your presentation, so be it. If there is time left over, it will be divided equally among the three parties represented on this committee. Would you like to start?

DESIGNHAUS INTERIORS INC.

Mrs. Lock: This is my daughter, Karon van Hartingsveldt. My husband owns the business and her husband is going to take it over eventually, so she also has a vital interest in the business.

In 1955, my husband and I established a furniture retail business in Toronto. We worked long hours because the Toronto city council allowed retail stores to be open evenings five nights a week. We could not afford to close our store during the times when our competitors were open for business. The strain on myself and our family was significant. It was not easy to bear the primary responsibility for raising children while my husband worked long hours; nor was it good for the children not to see their father on a regular basis, even though he was wonderful with them when he was at home. Our commitments to our church and our community also demanded time.

Imagine how delightful it was to then have three evenings freed up when, in 1977, we moved our business to Burlington. We were thankful that Burlington's evening retail hours were restricted to Thursday and Friday. Finally, we were able to devote more time to family and community life. It was not long, however, before we felt once again the pressure for extended shopping hours.

Here we saw the so-called domino effect at work. Some retailers, especially mall owners, were arguing that too many shopping dollars were going to Oakville, which had opened up shopping to five nights a week. We realized that Oakville had done so because Mississauga had five nights' shopping per week, and Mississauga had it because Toronto did. Burlington resisted the trend, but eventually gave in to extending shopping hours to Wednesday evenings, and now to Monday and Tuesday evenings as well. We have decided, however, to keep our store open only on Wednesday, Thursday and Friday evenings.

Now we are coming up against the pressures for Sunday openings. It is hard to believe that as Canadians we are letting materialistic values get so

far ahead of family values. Do we really want to follow the example of the United States and fall into the trap of neglecting the need of families to spend time together so that they can stay together? I am not saying that Sunday shopping is the only thing to blame for the higher divorce rate and crime rate in the US, but I do think that allowing wide-open Sunday shopping is a way of saying that dollars are more important than families.

We did a survey of 10 western European consulates in Toronto. You have a sheet attached. The people we spoke to confirmed my belief that the western European countries are much better at protecting time to allow for interaction on family and community levels. It is no coincidence that these countries have a strong commitment to family values and strong national legislation prohibiting wide-open Sunday shopping at the same time. None of them, by the way, allows for local municipal options on this issue.

As an immigrant from the Netherlands, one of those western European countries, I have always felt more at home in Canada than in the US because Canadians seemed more determined to maintain family values, but now I feel that family life is being threatened in Canada and I have to fight for it. It is not only families who are at stake; communities in general will suffer, I believe, from wide-open Sunday shopping. Lengthening retail hours will mean cutting out opportunities for businesspeople to make contributions to their communities.

I know that in Burlington many business people make substantial contributions to the communities that support their business enterprises. I do not mean only financial contributions, but also time-wise. They want to give something back into those communities, but even now, because their stores are open so many evenings, they have to struggle to do so.

I would like to mention here that it is not the mall owners who are prohibited from engaging in community life; most of them do not live in the smaller communities anyway.

Keeping tight control of Sunday shopping hours is an important way in which the government of Ontario can promote opportunities for families and communities to interact. We cannot afford to take an individualistic approach and neglect the importance which families and communities have in nourishing and bolstering each one of us, the citizens of this province, but for families and communities to fulfil this role there must be common time available to as many people as possible. We need time to be together.

There is one final point I want to make. As a Christian, I believe that God intended for us to have a day to rest and join with others in worshipping Him. If the government of Ontario gives in to those few people in our province who want the municipal option, and if the city of Burlington gives in to those people who want Sunday shopping, which it most certainly will do if the neighbouring communities allow it, we will not open our own store for business on Sunday. That is going to have a detrimental effect on the value of our business, and I feel badly about that for our children, who will be taking it over.

I feel very strongly that I am being discriminated against as a Christian. You cannot say you will simply be allowing for a choice between business and worship or business and family. For me and others like me, there is no option regarding worship, and so the proposed amendments to the Retail Business Holidays Act would eventually penalize me for my Christian beliefs.

Only firm provincial legislation can keep retail hours within proper limits, only firm provincial legislation can protect family and community time and in that way promote important family and community values.

Mr. Chairman: Does your daughter have anything to add?

Mrs. van Hartingsveldt: No.

Mr. Chairman: Just here for moral support.

Mrs. van Hartingsveldt: Just here for moral support.

Mr. Chairman: We have roughly 21 minutes left, so seven minutes a caucus. I do not have any hands yet, but I presume, Mrs. Cunningham, you will be carrying the ball for your party.

Mrs. Cunningham: Thank you for a very articulate and heartfelt presentation. You should know that we have had literally hundreds of presentations before this committee as we go into our last week and that very few—maybe six or seven—have been in favour of this legislation, so you are in a tremendous majority of people who are speaking against it, and for the very reasons that you did.

I would like to ask you a question with regard to your intent to close the store, even if the permissible hours to open are changed, and your statement that you would feel somewhat sorry for your family. If you were just starting this business, would you have had the opportunity to close the store? You talked about when you first got started in 1955. Would it be the same?

Mrs. Lock: You mean evenings or Sundays?

Mrs. Cunningham: Would it be the same ball game for yourself, as someone who is somewhat more established, as for someone starting out?

Mrs. Lock: I do not think it would be the same. You would not go into the retail business if you were faced with having to be open on Sundays. It is not a matter of choice: in today's society, when the competition is the way it is, either you are open or you close your business.

Mrs. Cunningham: It is interesting you answered that question with such sincerity, because that is not how my Liberal colleagues perceive this legislation to work. They are certainly not convinced of the domino effect and they say, "Even if a municipality opts for it, that is called local autonomy, and if the people in that particular municipality want to work seven days a week, then that is okay by us." Of course, that is the big argument, is it not?

Mrs. Lock: Yes.

1010

Mrs. Cunningham: If this legislation is important enough, the government and the province of Ontario should be biting the bullet and supporting the common pause day.

My next question has to do with this last page. I apologize I came in a bit late, but I see you have done your homework around what is happening in Europe and I wondered if you would speak to that just a little bit. It is very important information for us.

Mrs. Lock: These are the countries that I am mostly familiar with. There are probably others, but I am not familiar with those. Since we are in the furniture business and have been in the habit of importing from several European countries, we still visit these countries for business reasons, and since I was born in Holland and we still have relatives there, we pop in there from time to time.

Sometimes it is not always that pleasant when you are a tourist in a country and, all of a sudden, Saturday afternoon everything is closed, but you do get used to that. You accept that, and you realize that the people of that country are also allowed to have the weekend off, the people who work in the shops. It is a very democratic way of living, I think, because these people are already open sometimes on the weeknight evenings. In Holland they have two shopping nights in most of the major centres, Thursdays and Fridays, but Saturdays they close at noon so that the retailers and their staff also have the weekend off.

Mrs. Cunningham: I think you should also know, at least it is my perception, that this particular Liberal government is more interested in looking at the models in America. They have told us how great it is, "There is nothing wrong down there, because everybody is open on Sunday and they like it." I do not buy that, and I do not think you do either or you would not be here.

I ask the same four questions, and I have you down as being in favour of a common day of pause. You are obviously aware that it is not part of the framework of this legislation, so I have you down as that. I have you down as being against the municipal option, which really means passing the buck to the municipality.

The real issue, and one of the reasons this government has said it has to write this new legislation is, first of all, it cannot enforce it—and I have not been able to get any information that tells me it cannot enforce it except that it will not—that it is not enforceable and that is a fact.

The second reason is that they do not know what a tourist area is and they are not prepared to define it. I know it is tricky, and the municipalities of Ontario told us they are willing to assist us and I have been asking the witnesses if they would assist us if we asked for their assistance. Would you help us with that if that happens to be one of the major issues in the debate over this bill? Would you be willing to give us some help on the definition of a tourist area?

Mrs. Lock: I think I have no problem with that.

Mrs. Cunningham: Thank you, Mrs. Lock, and I am sorry, what was your daughter's name?

Mrs. Lock: Karon van Hartingsveldt, a real good Dutch name.

Mrs. Cunningham: Yes. Thank you very much for coming.

Mr. Ballinger: Aren't you pleasant this morning.

Mrs. Cunningham: I am always pleasant, Mr. Ballinger.

Mr. Farnan: Mrs. Lock, I want to thank you for your brief. Before I ask you some questions, I would like to give you this sheet of paper. It is a statement by the Premier (Mr. Peterson).

The Premier of Ontario is saying that no matter what you say, the municipal option will remain; no matter what all of the people who appear before this delegation say, the municipal option will remain. The Premier of Ontario is saying that no matter what the people of Ontario say, he is going to go ahead. Could I have your reaction to that, please?

Mrs. Lock: I am very well aware of that, of course. You have only to read the newspapers to know what is going on, and since I am very nervous about speaking in public, I have thought about using this as a copout not to be here. But I also believe in justice, and I believe we all have a duty to speak out for what we believe in. That is why I am here. I am shaking, but hopefully you will not notice that too much.

Mr. Chairman: Mr. Farnan is shaking too, so do not worry about it.

Mr. Farnan: I am always nervous.

Mrs. Lock: It is good to know. I have stated in my brief that I am a Christian. I know that many people in this province feel as I do. I am praying that the outcome of this legislation, or whatever you want to call it, will be a just one for all concerned.

Mr. Farnan: Yes. The Premier and the Solicitor General (Mrs. Smith) have said the municipal option is non-negotiable. You are aware of that. The province is aware of that. Can you tell us what it is that you hope to achieve by being here?

You have told us that you felt a sense of obligation to come and express your views. There are seven Liberal members of the government sitting here. This committee will write a report with recommendations. If these Liberal members are truly listening to you and truly listening to the people of Ontario who appear before this committee, then we as a committee will recommend that this legislation be withdrawn, that the municipal option be withdrawn. That is what we would recommend if we were truly listening.

What do you hope the Liberal members of this committee will do as a result of your voice and the voices of so many others who have expressed the same opinion?

Mrs. Lock: I can speak only from my own experience. When I was just a young bride, my husband came from a business-oriented family in the Netherlands. This is what he hoped to do again in this country. That was difficult enough for me because I did not come from the same kind of background.

Since I was supposed to be a helpful mate, I supported my husband in this and we started out. I have found it always very difficult in this country to live with the kinds of pressures that we lived under being open every night. We wanted to have a family, but raising children all by yourself is not very easy. With my husband having to work, he would leave the house at 8:30 in the morning and he would come home at 9:30 at night. He was tired. Still I had to be supportive and I had to support him. I also had to make sure that he had time for the children, because he was their father.

When we moved to Burlington, it was different there. That was terrific. He came home at six o'clock. We could have dinner together as a family. That, to us, was just a marvellous thing. As for the domino effect, I have experienced that myself. The pressure is terrible on a community. The thing

that really upset me in Burlington was that all the store owners and a lot of individuals with family owned businesses in towns like Burlington are against being open every evening and being open on Sundays. Often they have their children involved in the business.

Mr. Farnan: I like the way you are looking at the seven Liberal members when you express these views, hoping that you will convince them.

I want to draw your attention to my mascot here. You many not be able to read the small print. It says: "I am not deaf. I am just ignoring you." That is what these Liberal members are doing. You can talk to them all you wish. However, they are going to ignore you. They have been told how to think, what to say and what to write to their constituents. Indeed, they have been told how to vote.

1020

Mr. Ballinger: Can't you get new material?

Mr. Farnan: Mr. Kanter, the parliamentary assistant, has said in Peterborough, "We will not recommend withdrawal of the municipal option." We are down to the wire. These Liberals are going to ignore the voice of the people of Ontario, and the Legislature is going to pass this legislation.

Mr. Chairman: Thank you, Mr. Farnan. Your time has expired.

Mr. Ballinger: Save your speech for the House.

Mr. Chairman: Do I have any further questioners?

Mr. Farnan: I wonder, Mr. Chairman, whether it is appropriate that we do not interject.

Mr. Chairman: You all know that interjections are out of order.

Mr. Ballinger: With the greatest respect—

Mr. Chairman: They are out of order, and what you are doing by raising that, Mr. Farnan, is simply inviting an interjection.

Mr. Chiarelli has seven minutes.

Mr. Farnan: Bush league.

Mr. Ballinger: It sure is. I should have brought my rubber boots.

Mrs. Cunningham: You are going to get your name in the paper if you keep this up, Ballinger.

Mr. Chairman: Mr. Chiarelli, it is your time. Seven minutes. Go ahead.

Mr. Chiarelli: Thank you, Mrs. Lock, for your presentation. I am the son of immigrant parents who operated a grocery store. I grew up on the second floor of a grocery store through my early years, and I appreciate the difficulties of long hours and family businesses. I can empathize with a lot of your comments.

We are here today to hear submissions. We have heard a lot of submissions from people, but a lot of them have come in and indicated that in terms of store hours, which are a municipal item at the present time, they choose not to open on all evenings that they could be open. In fact, you have said that yourself. You have indicated that in Burlington you can now open on Monday and Tuesday evenings, and you choose not to open. You indicate you will choose not to open on Sunday. You are not alone in choosing not to open during the evening. As I mentioned, there are very large numbers of people who have come before the committee and indicated that.

I would like you to indicate for the people on this committee to what extent you feel your business has been financially damaged by having to stay closed on those Mondays and Tuesdays.

Mrs. Lock: Just recently, we were renovating part of our present store in Burlington. Often, for painting and cleaning, etc., we were in the store on Monday and Tuesday evenings. We found during those two evenings that customers constantly came to the door wanting to get in. We have the Brick in Burlington and we have Leon's in Burlington. Both of them are open five nights a week. I am sure that we have lost business to these bigger stores.

Mr. Chiarelli: But you have not felt the pressure sufficiently to force you to open under the domino effect during the week.

Mrs. Lock: We have not given in to greed, but if we wanted to, we could increase our business significantly, I am sure, if we were open Monday and Tuesday evenings as well.

Mr. Chiarelli: The reason I am asking the questions is that, as I mentioned, a lot of business people are choosing not to open during the week when they could be open, and there has been no domino effect six days of the week. People are claiming that it will exist out of fear on Sunday.

I would like to share with you what is happening in my riding of Ottawa West. Three or four blocks from where my house is, there are four pharmacies at an intersection. For the last number of years, only one of them has chosen to be open on Sundays, and the other three have chosen to remain closed. One that has chosen to remain closed is a Boots pharmacy. There is no agreement among the pharmacies to do that. It is simply the marketplace and individuals making choices.

I find it hard to accept that, at least in that instance, there is a domino effect when three pharmacies have chosen week after week to remain closed and one has chosen to remain open at the same intersection. Do you have any comment on that?

Mrs. Lock: I think there are just as many examples of people who do lose quite a bit of business in different areas by staying closed. In the area where I live, I found that fruit and vegetable places lost a lot of business. There were several that wanted to stay closed, but they were forced to open or to stop doing business.

Mr. Chiarelli: That brings us to the existing legislation. As you are aware, there are a lot of establishments that can remain open under existing legislation. You have indicated that you want firm provincial legislation to maintain retail hours within proper limits. Are you happy with the existing provincial legislation? Do you like what is open now or would you like to see things closed or would you like to see more control?

Mrs. Lock: What I would like to see is that there is a uniformity province-wide.

Mr. Chiarelli: You are not happy with the existing legislation then?

Mrs. Lock: The way it was in Burlington was terrific. Two nights a week, even three nights a week I can live with.

Mr. Chiarelli: But in terms of the existing Retail Business Holidays Act, are you happy with what is in there now? In other words, there is a local option at the present time under the guise of tourism, if I can put it that way, which permits retail stores in over 100 municipalities today to remain open in one form or another. Would you like to see that tightened up or would you like to see it remain?

Mrs. Lock: I would like to see it tightened up and I would like to see legislation that is the same province-wide.

Mr. Chiarelli: For example, would you like to see Chinatown closed on Sundays or would you like to see it open?

Mrs. Lock: That is a tourist area, right?

Mr. Chiarelli: They are opening under the tourism section of the existing legislation, but a lot of people dispute whether in fact it is tourism. But forgetting what you call it, conceptually do you like the concept of having a place like Chinatown open or would you rather see it closed?

Mrs. Lock: I am not informed enough to give a really good answer. I am sorry. I am busy in my business.

Mr. Ballinger: You would make a wonderful politician.

Mr. Chiarelli: All right. Thank you very much, Mrs. Lock.

Mr. Chairman: Thank you very much. We appreciate your coming before us and sharing your views with us. Everybody appreciates that.

Mr. Ballinger: Dianne Cunningham answered it.

Mr. Chairman: Thank you. The next group to address us is the Downtown Brampton—well, good heavens.

Mr. Ballinger: Do you have a conflict, Mr. Chairman?

Mr. Chairman: No, not at all. People from Brampton are marvellous. Mr. Bennett, I must have had my eyes shut as I walked in here.

Mr. Bennett: That is okay, Bob.

Mr. Chairman: The Downtown Brampton Business Improvement Area, Charles Bennett, chairman. I understand that you will be addressing us without a brief.

Mr. Bennett: Right.

Mr. Chairman: As I explained to the other deputants, you have 30 minutes. That is your time and you can use every minute of that for your

presentation. If there is time left over, I will attempt to divide it equally among the three parties that are represented on this committee. If you would like to start, Mr. Bennett.

DOWNTOWN BRAMPTON BUSINESS IMPROVEMENT AREA

Mr. Bennett: Okay. I have two voices here. I own a jewellery store in downtown Brampton, a retail store, and I am also chairman of the Downtown Brampton Business Improvement Area.

I actually had a fairly long presentation that I was going to read from, but essentially what it says is that we oppose the impending change in the legislation because we fear it will lead to open Sundays everywhere. We are quite sure that it will just be, as people were saying earlier, a domino effect. We do not want it. As Mr. Callahan has experienced in his area in municipal politics, the municipal governments are vulnerable to tremendous pressures from small, powerful groups that may enforce a Sunday opening in an individual area. If an area east of us, west of us or south of us is open, then Brampton will have to open. It will just carry on from there.

We had an annual general meeting of the BIA. First of all, we have talked to individual members throughout the year, year and a half, two years, that this debate has been going on, but at the annual meeting we checked to make sure that I was speaking for the majority of the people. Everyone opposes Sunday opening. What we feel is that the current legislation with more teeth is the best way of protecting the Sunday closing.

1030

Sunday is the only day I have with my wife and children. We go sailing on Sundays. I see Mr. Callahan skiing on Sundays at Collingwood, so he is taking the opportunity of a family day with—

Mrs. Cunningham: Oh, you two know each other. You know our impartial chairman. My goodness.

Mr. Bennett: I am sure it is a family day for Mr. Callahan too, because I have seen him skiing with his family. We want the same opportunity.

The retail business touches a lot of people. It employs far more people than is obvious by walking through a store or something. I have a little jewellery store and employ four people, but the number this affects—my people and their families and their families—is quite phenomenal.

If you change the legislation, we know eventually Sunday opening will come. Pressure of business is such that if three jewellery stores in downtown Brampton are open, I cannot afford to close. I do not believe the economy is nearly as buoyant as the newspapers are predicting right now; certainly not in the retail sector. We do not need another day to shop. My store is open 60 hours per week and that is totally adequate.

Essentially, what I am saying is that we oppose the impending change in the legislation because we feel it will open the way to mass Sunday opening and we are opposed to that. That is basically it.

I might add just one thing. Last fall, when it seemed like last Christmas was going to go wild as far as Sunday opening was concerned, one of the local malls took the individual managers and owners—mainly the

independent owners—into a room and essentially told them that if the mall was open, they had no option but to open.

If the legislation is such that they cannot force them to open, they will do it by not renewing a lease. Essentially, they will put the pressure on the individuals in the mall, the independents, to make them open. We need the protection and power of the provincial government in order to maintain Sunday closing.

Mr. Chairman: Thank you, Mr. Bennett. There are 25 minutes left. That is roughly—

Mrs. Cunningham: Eight minutes.

Mr. Chairman: Eight minutes and a bit.

Mr. Ballinger: And 20 seconds.

Mr. Chairman: Eight minutes and 20 seconds.

Mr. Chairman: Who do I have? I have Mrs. Marland first: eight minutes and 20 seconds. I can see Christine Hart feverishly working on a new crib sheet for me that goes as high as 30 minutes. Go ahead, Mrs. Marland.

Mrs. Marland: I represent Mississauga South which is also in the region of Peel. I know you are aware that there is a business improvement area in Streetsville and also in Port Credit. Perhaps you are not aware that the Port Credit BIA has had the Sunday option bestowed on it because the region of Peel government allows it under the current legislation to have that option. I am wondering whether your BIA members knew that Port Credit could be open on Sunday as a tourist designation.

Yet the irony is that, although they have that designation—and my office is right in the centre of the BIA in Port Credit on the lakeshore—on a Sunday in the last three years, while I am in my office on Sundays, there may be three or four stores that open. Is it not interesting that even though they have had the option given to them by the same regional government you come under, they are not using it? It confirms that even the Port Credit BIA is not using its tourist exemption, although it has it. Have you had any discussion with the Streetsville or Port Credit BIAs?

Mr. Bennett: Not directly, but as members of the Ontario Business Improvement Areas Association, the OBIAA, there is continual correspondence between the headquarters and the various BIAs, and the unanimous support is for keeping Sunday as it is.

Mrs. Marland: You mentioned needing the "power and protection"—I think those were the two words you used—of the provincial government. BIAs exist under provincial statute, do they not?

Mr. Bennett: Yes.

Mrs. Marland: How many members does the Brampton BIA have?

Mr. Bennett: We have over 400 businesses.

Mrs. Marland: That is a very large BIA.

Mr. Bennett: We are one of the larger ones. As far as who it touches is concerned, it is certainly thousands of people.

Mrs. Marland: How do your members feel about the failure of the Liberal government to present the same picture in this legislation as they talked about on the campaign trail exactly one year ago?

Mr. Bennett: In the last two elections in Brampton, we turned out the Conservative sitting member. Personally, I was one of the people who wanted a change. I voted for Bob. I wanted Bob Callahan. I wanted the Liberal government in power. But if this is forced on us, I will change my opinion of the government and will vote against it.

Mrs. Marland: Bob Callahan, being a former city alderman for all those years, would be well known and well respected for his ability as a politician. Obviously, as a backbencher, he does not control the government, and nor do I. Do the BIA members feel betrayed? Is that how your membership is sitting in terms of a government policy; not the local member's policy but a government policy?

Mr. Bennett: I think at this stage they do not feel betrayed because there is this hope that the decision will not go to the municipal level. There is this hope that the government will listen to the various briefs and make a decision which, obviously, in my way, is to maintain the power at the provincial level. If this were a federal issue, we would be sitting in Ottawa right now doing it. We feel it should remain above the municipal level because municipal governments are very vulnerable to pressure; we do it ourselves when we need something.

Mrs. Marland: Are you aware that the region of Peel government passed a resolution supporting your opinion?

Mr. Bennett: Yes.

Mrs. Marland: And that the region of Peel chairman, Frank Bean, wished to appear before this committee and speak as a deputant on your behalf and on behalf of the majority of the residents of the region of Peel?

Mr. Bennett: I have talked to Frank several times in the last week and a half just to make sure we were coming from the same boat. His objections obviously are more encompassing than mine because he is looking at the cost to the municipalities. I am just looking at the fact that small businesses need a day off.

Mrs. Marland: The regional chairman, Mr. Bean, is looking at the cost to the local property taxpayers for policing and enforcement and all the other aspects of Sunday opening. That is a very big cost factor for people who find it hard today to meet the cost of property taxes.

Mr. Bennett: It is a major cost to any of the retailers because they are the ones who will be affected by Sunday opening. The professional groups, I am sure, will not open their doors to Sundays, but the retailers are going to increase their overhead by at least 15 per cent; and the retail sector is soft right now. It has been soft for a while and cannot afford increased costs.

Mrs. Cunningham: You are a very interesting witness. First, you know Mr. Callahan very well. We were all looking forward to your appearing before us today. He is a pretty good guy.

Mr. Bennett: Yes.

1040

Mrs. Cunningham: He is kind of stuck, you know, with this whole thing—

Mr. Ballinger: Here comes the hook, Bob.

Mrs. Cunningham: —as are, I should say, my colleagues across the way. We have been travelling together for a long time, and they are great people. It has been a good committee. I just wish that they were allowed to listen.

When you came, the very first thing you expressed today was your concern about the municipal government and the pressures on the municipal government having to make these kinds of decisions.

I have to tell you that I am really concerned too, because one of two things is happening. Either the Premier (Mr. Peterson) really has this vision for the province—that is, wide-open Sundays, with everybody busying themselves at night, Saturday, Sunday, the whole time, as opposed to the kinds of things Mrs. Lock told us were happening in Europe, in England, Germany and Holland—or he is under some terrific pressure. None of us know what that would be. It certainly is not from the witnesses.

You are an important witness today because the business improvement areas have been represented across this province and they have been unanimous in their input. One of the real problems with this legislation, according to the Solicitor General (Mrs. Smith), is the fact that they cannot define a tourist area. I am wondering if you have given it any thought or if you would be willing to assist us, if we were fortunate enough to get that as part of the ongoing discussions of this committee, so that we could just fix the old bill where we have a problem.

Mr. Bennett: Determining a tourist area obviously is a very difficult thing. Personally, if I go on holidays, I do not shop on Sunday; so I do not need to buy a fur coat or a ring on Sundays anywhere. Most places are open six days a week.

I have been to Europe. To me, the most civilized island to go to is an island called Bermuda. In Bermuda it is not open on Sundays. I do not think you need to buy most items on a Sunday. I can recognize the problems of defining a tourist area, but I do not think the whole retail sector should suffer because of it.

Mrs. Cunningham: Because someone has not made the effort or asked for your assistance.

Mr. Ballinger: Mr. Bennett, I happen to be a Liberal and proud of that fact. I was also a retailer and a former mayor of my municipality prior to coming to Queen's Park.

I want to discuss a couple of issues. I think the biggest problem we are having, from our point of view, is the fear that something out there is going to happen. I was interested in your comment as it related to the fact that if the legislation goes through, you would not vote for the chairman again. Could I ask you, if the legislation goes through and there is no change, other than

the status quo today, which I believe is going to happen, is your opinion still the same about how you would vote?

Mr. Bennett: I do not believe that if the legislation goes through and you move it to the municipal level, it will remain the same.

Mr. Ballinger: Then let me ask you this: Are you aware that in the Golden Horseshoe it has been designated to be at the regional level and not the local level?

Mr. Bennett: Yes.

Mr. Ballinger: Then could I ask you, since now the region will be making that decision, how your concerns about the domino effect will happen.

Mr. Bennett: If a neighbouring region opens up to Sunday shopping, then the regions beside it will be forced to open.

Mr. Ballinger: Okay. Let me ask you this: Are you aware that all of the regions surrounding Metro, including the majority of the member municipalities in Metro, are on record as being opposed to being open on Sundays?

Mr. Bennett: Yes.

Mr. Ballinger: Then I think this is the actual dilemma we have as a government. I sat on Durham regional council for seven years in my capacity as mayor of my community. They are formally on record as being opposed and I think it begs the question, who is going to start?

Mr. Bennett: Having sat on a municipal government, you know how vulnerable you are to local pressures from small groups. We all do it. BIA does it when it is trying to get something through. We have somewhat the same influence at the regional government level. We all know the individuals who sit on the region because we work with them on a daily basis; they are highly vulnerable to pressures from a small pressure group.

The Ontario government does not have the pressure that the municipal governments, local governments have. I just feel that the control is best left at the top.

1045

Mr. Ballinger: The beauty of this is the discussion and trying to understand each other's position. Where I disagree with you is what will happen at the regional level.

Let's use Metropolitan Toronto as an example. Suppose a developer wants to open a Scarborough mall. He has to make that application to the Metro level. Even though the members in Scarborough may be supporting that application, the surrounding member municipalities within the regional context know, if they support opening the Scarborough Town Centre, what effect it will have. Let's use North York as an example. They know that Fairview or Yorkdale or any of those others is going to have to support that application in their own community because then that will start the domino effect. I, with my own experience at that level, anticipate that will not happen, that the people in North York will not support an application from Scarborough for that exact reason. Therefore, the check and balance is there within the system between the member municipalities. I firmly believe that and it has been my experience.

Mr. Bennett: Then why not leave the legislation alone and leave it where it is? Why make a change? Just put some teeth into the legislation that you have.

Mr. Ballinger: I will respond to that. The legislation now is at the regional level. The only difference in the legislation from this point of view relates to the so-called tourist exemption. Mrs. Marland talked about a Port Credit business improvement area that has an exemption currently and does not use it. There is no difference. The system that you have today proposed in Bill 113, with the greatest respect, is exactly what was there before.

Mr. Bennett: No, it is not, because you are moving it to a level closer to an area where it would be vulnerable to pressure.

Mr. Ballinger: Could you explain that to us?

Mr. Bennett: Yes. Regional and municipal levels are more vulnerable to local pressures than is the provincial government. In our area we have two major malls in Brampton, both owned by one large corporation. They call themselves ??Trilea and Trizec.

If they make a decision that they want to open Sunday and it is to the mall owner's benefit to open on Sunday because they can derive more income, their concern is not for the individuals in the mall but the revenue created from it. It is to their advantage to open on Sundays. They can have a tremendous impact at the municipal and regional levels in trying to sway the government to make the local option.

Mr. Ballinger: But they still have to convince, first and foremost, the members from Brampton that they would have to support that application. Then the members from Brampton would have to take it to the region and convince the region as a whole. The check and balance in the system, with the greatest respect, is that Mississauga or Caledon would look at that and wonder what impact it is going to have on their own community and for that reason would not support the application.

Mr. Bennett: I do not believe that.

Mrs. Cunningham: Good try, Ballinger. It is such a good tack. I can see you are convinced.

Mr. Ballinger: It is happening now.

Mrs. Cunningham: Kiss your seat goodbye if you pass this stuff.

Mr. Ballinger: It is happening now.

Mr. Chairman: Mrs. Cunningham, you had your time.

Mr. Ballinger: I want to make sure Mrs. Cunningham is awake, Mr. Chairman.

Mrs. Cunningham: Kiss your seat goodbye, Ballinger. You are gone.

Mr. Ballinger: No, I am not gone. You can make that statement all you want. It is typical of the Conservatives.

Mrs. Cunningham: We will see.

Mr. Ballinger: And your fear tactics.

Mr. Chairman: Through the chair. You are just evoking responses. Go ahead.

Mr. Ballinger: Thank you, Mr. Chairman. That quite frankly has been the tactic of the opposition. As a member on the government side, with 10 years' municipal experience, and as a retailer, I do not believe what they are saying is true. That is why I am sitting here.

Mr. Bennett: The problem is, you people are politicians. You are sitting around the table. You do this in the House, you do this in committee. To a certain extent it is part of the game, but it is our life.

It is not a light thing, if people do not want to work, to be open on Sundays on the whole. A few individuals want to if no one else is open. That is where it comes from basically. This is where the pressure comes from. A few people want to be open. The majority do not want it.

If there were a plebiscite taken today, certainly if you look at the polls, people are opposed to Sunday opening. The area where you can best maintain the non-wide-open Sundays is at the top, which is the provincial government. I feel that the legislation as it is is adequate, with more teeth so you cannot defy the law.

1050

Mr. Ballinger: Then I suggest to you there obviously is a disagreement in that particular interpretation. It has been proven in Ontario, with over 100 municipalities making requests for special exemptions for the tourist exemption, that in fact each area of Ontario is significantly different from the others. This legislation, in my opinion, reflects that and addresses those particular concerns. The concern that you shared with us this morning about the domino effect I believe is handled in this current legislation under the regional option as far as making that decision goes. I am sorry, but I do not share those same concerns.

Mr. Chairman: Thank you. Mr. Farnan has eight minutes and 20 seconds.

Mr. Farnan: Before questioning the delegation I just want to point out that Mr. Chiarelli, in questioning the previous delegation, used Ottawa to justify support for the Liberal government's proposed legislation. For the record, the majority of citizens who appeared before this committee representing individuals and groups in Ottawa were strongly opposed to this legislation, many of them from Mr. Chiarelli's own riding; so indeed Mr. Chiarelli does not reflect the thinking of the people of his own riding or the people of Ottawa.

I think the interaction between yourself and Mr. Ballinger was a very interesting one. I think that at the bottom of that interaction is that the Liberal government wants to wash its hands of a tough decision. I think you were quite correct, sir, when you said this legislation will make a difference; it is going to be a different ball game. The difference will be that the Liberal government will have washed its hands. As the Church of Jesus Christ of Latter-Day Saints said when they appeared before this committee, "This decision of the Liberal government will ever retain the odour of cowardice." That is what it is.

I think there were 48 Liberal members in the minority government and there are 94 Liberals in this government. Does it strike you as somewhat strange that 48 Liberals prior to September 10, 1987, were opposed to this legislation and 94 Liberals after the government got a majority are unanimously in favour of this legislation? Does that strike you as rather odd?

Mr. Bennett: Do you want me to answer that?

Mr. Ballinger: He is just making a statement.

Mr. Bennett: No, I do not think it is rather odd, for a majority government.

Mr. Farnan: I find it strange, because I do believe that basically the individual government members are not thinking for themselves. Let's go to the area of the business improvement areas. The Liberals say that merchants will have an option: They can stay open or they can close. Municipalities can stay open or they can close. One retailer said, "To stay closed while my opposition is open would be retail suicide." Could you expand on that?

Mr. Bennett: I think it is true. Competition sets the pace, and as more and more businesses open up the others will have to follow suit or go out of business.

Mr. Farnan: You made a statement, and very quietly you said that if this legislation goes through, the confidence you placed in the Liberals as the government will have been taken away. Do you think that is a view that reflects the mind of small business across Ontario?

Mr. Bennett: I might add that, as I mentioned at the start, we turfed out a Conservative government. In our riding it was the Premier of the province. He did not lose; he retired. But we turfed out a Conservative government because we wanted change.

Mr. Ballinger: A tired, old Conservative government.

Mr. Bennett: Right. Whatever.

Mrs. Cunningham: Look what they got instead. Just think about it.

Mr. Bennett: I think the majority of the people have essentially been very happy with the Liberal government, but an issue like this strikes home. It is very close to everyone, certainly the retailers. It is a very close thing to us, and it is opposed by virtually all the retailers that I have ever encountered.

Mr. Farnan: That is what the committee has heard, and we hope the government will listen too. Seven-days-a-week opening will result in passing on increased costs to consumers. Is that a fact or, as the government will tell us, is that not true?

Mr. Bennett: The overhead is the determining factor on the price of the product. As the overhead increases, either the end price has to increase or you go out of business.

Mr. Farnan: Another point has been raised, and I would like your view on it. Some people appearing before the committee have said there will not be an increase in business; there will be a redistribution of the market share. Would you like to comment on that?

Mr. Bennett: People buy only so many tins of peas in a week. Whether you can buy them in seven days or six days, you are still going to buy the same number of tins of peas. I honestly do not believe there will be an increase in business; it will just be a greater slowdown. I have no doubt that if you went to Sunday opening, you would have more volume on a Sunday than probably on a Monday or Tuesday, but I do not believe you would have more volume.

Mr. Farnan: Do you think the volume would move to the malls?

Mr. Bennett: No. I think the volume would just be redistributed; that is all. We would have longer hours for the same amount of money.

Mr. Farnan: If the business improvement areas did not open on Sunday, it would move to the malls.

Mr. Bennett: If you were surrounded by large regional malls, it would be very difficult to compete with them on a seven-days-a-week basis.

Mr. Farnan: Mr. Hampton will continue the questioning.

Mr. Chairman: You have one minute and 20 seconds.

Mr. Hampton: I do not know how closely you have watched these hearings, but I just want to give you an opportunity to respond to another of the remarks Mr. Ballinger made.

Last week, we were visited by a delegation from Sears Canada. Sears has intimate knowledge of this issue since it has a number of stores on the lower mainland of British Columbia. One of the points the president of Sears Canada made was that in southern British Columbia, once one small municipality opened—not even a commercial centre—there was a progression out from there. It did not take very long before the whole of lower mainland British Columbia was open.

It is true there is an attempt to foist some of this on to regional governments, but one of the things he pointed out was that in the Golden Horseshoe of southern Ontario, you have literally regional government next to regional government. The distance you have to travel to traverse regional boundaries is not very great at all.

Mr. Chairman: Thank you very much for coming before us. I am glad to see you did get on. I know I have been blasted for the regional chairman not being able to get on. You obviously got your deputation in on time.

I also have to explain—and I think the committee members will allow me to explain—that as chairman I have to remain totally impartial. That is why you have not heard from me. But as soon as this is all over and we are back to the House—

Mrs. Cunningham: When we get the free vote in the House, you will find out how the Liberals really feel.

Mr. Chairman: —perhaps I will have an opportunity to meet with the members of the business improvement area and explain the circumstances.

Mrs. Cunningham: You'll get your chance to vote.

Mrs. Marland: Can we not let the chairman speak?

Mr. Chairman: No.

Mrs. Cunningham: As little as possible.

Mrs. Marland: I meant could the committee remain quiet while you make your final comments.

Mr. Chairman: Interjections seem to be becoming part of the order of the day here. I cannot snap a gavel and speak at the same time.

Mr. Hampton: We know that.

Mr. Chairman: I am like Jerry Ford.

Thank you very much, Mr. Bennett. Give my regards to the people back in Brampton.

The next group to appear before us is Marks and Spencer, with Tim James. Mr. James, you have 30 minutes to use in presenting your brief. I note it is fairly brief. You can use the entirety of the 30 minutes, however, if you wish. If not, as you saw, having being here, we will try to distribute the time equally among the three parties represented on this committee. They will either ask questions or make statements. Hopefully, there will not be any interjections. If you would like to proceed, you have 30 minutes.

1100

MARKS AND SPENCER CANADA INC.

Mr. James: Mr. Chairman, members of the committee, I am here today to maintain the fairly consistent position of my company, Marks and Spencer, of opposing Sunday shopping in Ontario over the years.

By now you have probably heard all the arguments for and against and I certainly do not need 30 minutes to repeat them all. I do want to take just a short time to highlight the three main points as we see them from our perspective. I would like to add as well that we take this position based on our experience as a retailer with 80 stores all the way across Canada.

The first point we would like to make is that we do not find that Sunday shopping increases the market size. All it does do, we find, is spread the dollar over longer operating hours. People do not produce more money to spend simply because we open our stores an extra four, five, six, seven or eight hours a week. On the other hand, we do find that there is an increase in operating costs, quite naturally. Also quite naturally, these costs in the end are passed on to the consumer.

We also find, and this is where the sawoff comes, that we either pass on all the costs to the consumer or try to balance them off. What happens is that our staffing hours get spread just a little bit thinner and it becomes increasingly difficult to offer a satisfactory level of service from well-qualified and trained staff. That is the first point.

I believe the second point is more important. We are concerned about the social impact on our staff of Sunday shopping. We believe it would clearly have a detrimental effect on the quality of life for them and their families. Our staff, many of whom are mothers of young families, have already raised this as a concern with us right the way across the country. It is usually the

one day of the week they can be together with their families and they have already, in their conversations with us, expressed a reluctance to volunteer for Sunday work. So if in the future we, as a company in Ontario, are forced to open—I underline the word "forced"—they would find themselves in a very difficult situation.

Our business feels it is important for our employees to enjoy a common pause day with their families. I believe that was also the recommendation of two previous provincial task forces and all-party committees on that issue. We believe that unrestricted commercial activity seven days a week will clearly compromise that.

As a concerned employer, to us the social cost of Sunday shopping is unacceptable. I think that if we all believe in family life, then we must all support policies and laws that will enhance it. It was on that basis that Marks and Spencer has consistently refused to open its stores in Ontario on Sunday, in spite of what I might add has been considerable pressure from landlords and other retailers.

The last point I would like to make is that we actually believe the Retail Business Holidays Act today is good legislation. It has been tested in the Supreme Court of Canada and we believe it should be enforced actively throughout the province. I would like to underline that we are particularly opposed to the proposal to shift the decision-making apparatus to individual municipalities. We do not believe it is a realistic option. We believe that it must be reconsidered. I would like to ask that the recommendation of this committee be to do just that.

The Acting Chairman (Mr. Chiarelli): Thank you very much, Mr. James. We have roughly eight minutes per caucus for questions.

Mrs. Cunningham: Thank you for appearing before the committee. Your experience and your reputation across Canada are ones that I think all of us should be taking into consideration. We should be considering your recommendations very seriously. I like the way you have underlined your three major criteria based on your experience. You should know that we have heard hundreds of presentations and people in the retail business have made those particular points before. It is nice to know that they share your observations and in fact your factual information. I thank you for that.

I have a couple of questions. On page 2, you talk about pressure from landlords. I am wondering if you could go into that in some kind of detail. I am now talking about the fact that you have refused to open across Canada in spite of pressure from landlords. I wonder if you could talk to us about that a little bit.

Mr. James: The pressure can be brought in various ways. There are in some leases clauses that preclude you from opposing extended shopping hours. Of course, the leases also demand that you are open at the same time as the mall is open. If they decide to open, then you must open whether you wish to or not. Everybody's lease, at a certain period of time, comes up for renegotiation. Even if nothing is said up front, certainly when it comes to renegotiation, you could find yourself in an extraordinarily difficult position if you choose to oppose the landlord, if he wishes, as they do, to have his mall open, because he takes a percentage of the take, not a percentage of the profits.

If it costs you 99 cents to make a dollar, they are quite happy to take

a percentage of that dollar, even if you are not making any more than a cent. The pressure on them to have their stores open 24 hours a day, seven days a week is extreme, because what they are trying to do is take a bigger share of the market. The pressure they can bring to bear is, first of all, through the lease, and second, at the time of renegotiation.

The other pressure that comes to bear is that we are a retailer; we are in business to sell goods. Quite frankly, if retailing were open seven days a week, 24 hours a day, there would always be somebody who would want to go shopping at any time. All that you tend to do is, just as you say, to spread that dollar.

The commercial pressure to be open with your competitors is such that if you wish to stay in the mainstream of retailing, you will have to respond to it. Otherwise, you will see your market share eroded. That, I might add, is why there are some retailers who would favour Sunday shopping, or any extension of hours, on the basis that they are big enough and powerful enough to exert the pressure in the short term to absorb a larger percentage of the market.

Mrs. Cunningham: Your point of view is interesting. I was in a small hardware store in London which is not part of a mall; it is just on one of the main streets, at Richmond and Oxford, Wallace Home Hardware. I was asking them about this and they said they were really concerned, because in their business they help people a lot and if people get into the habit of going to a store that is open on Sundays, that is where they really would lose the business. You get in the habit of getting someone else to show you how to mix your paint or choose a certain mechanical apparatus you might need for your home. He felt that is where the business would be lost. It was more in the service provision in that particular hardware store.

In Ontario now—I made a mistake before when I said across Canada; I did not mean to say that because I know you are talking about pressure from landlords in Ontario—are you in any large mall that is open on Sundays? Do we have any experience in Ontario in one of these large malls that are looking to be open, but have not been able to open to this date?

1110

Mr. James: It would be wrong of me to speak for the landlords, but I think it is fairly common knowledge that the majority of them would like to have their malls open on Sunday.

Mrs. Cunningham: Are you in a mall where the stores are open?

Mr. James: No.

Mrs. Cunningham: Not now. I do not think there are very many large malls anyway, if any.

Mr. James: No. There have been some instances, particularly the last two Christmases, when there has been confusion about whether you were allowed to open or not, or you should or should not, where we have stayed closed and the malls have opened. In Hamilton particularly, where you had the Robinson's situation, that occurred. Does that answer your question?

Mrs. Cunningham: Yes, that is good. Mr. James, the Liberal members—

The Acting Chairman: In about 30 seconds, Mrs. Cunningham.

Mrs. Cunningham: All right. Mrs. Marland, do you want to take the 30? We can talk about this later.

Mrs. Marland: I think the important factor you are presenting this morning in your presentation is the emphasis about the cost being passed on to the consumer. I think that is very significant to the people of Ontario.

I also want to ask you about the detrimental effect on the quality of life for your employees. In mentioning that, first of all, I commend your company, along with companies like Sears that have gone public in support of their employees. That is tremendously commendable. When you are a company that is international, and certainly with the experience in Britain, where a lot of stores still close at 5:30 and Wednesday afternoons and so forth, you are in a very strong position to look at family life for your employees.

The Acting Chairman: Thank you, Mrs. Marland, I think your time is just about up.

Mrs. Marland: Well—

The Acting Chairman: We have been trying to adhere to the time fairly strictly, I believe, and we would like to go on to any other questions.

Mr. Farnan: I just have a question concerning employer-employee relations. Like my colleagues, I would also like to commend you and your company on the very responsible stand you have taken in supporting quality of life for your employees, but in the very best of employer-employee relations there are strains and stresses. With the most conscientious employer and the most co-operative employees, there are frictions in trying to work out acceptable patterns of work for a large number of staff. This is something that employers are working on diligently all the time to maintain the best possible type of relationship in their company, realizing that good relationships make for better productivity, etc.

Would you like to comment on the kinds of additional pressures that this legislation, particularly Bill 114, will put on that relationship between employer and employee?

Mr. James: I think that although we would always try to respond to the individual employee's situation with regard to when he or she cannot work, we are running a commercial activity where, if our store is open, we have to provide a level of quality of service that the public demands. Otherwise, we cease to be in business. Therefore, it would no doubt, in my mind, certainly become a fact that those people who would be seeking employment with us would be required to do some Sunday work, every Sunday, every other Sunday, every third Sunday or once a month, whatever it had to be.

You could argue that those people took that choice and joined us knowing what the situation was, but we already employ a number of people who joined us not knowing that. They are, as we have said, members of families.

If we have to then go to Sunday shopping, I believe we would find ourselves having to make the point of asking for volunteers in the first place, but certainly we would have to provide staff to work those stores on Sunday. That obviously brings pressure. That in itself would cause some dissatisfaction among the staff. I would like to think that we as a company

would find ways around it, but I am not sure that would happen across the board in the retailing business. I suspect that many people would find themselves literally forced into doing it, and it does not have to be an upfront forcing; it can be a forcing, quite frankly, which is not obvious. It does not take much imagination to see how you could do that.

Mr. Farnan: I am not sure what the statistics are, but under the new legislation employees could appeal to employment standards officers, etc., who would make judgement on their situations. My understanding is that if there was even one per cent of cases going to that particular form of appeal, it would be equivalent to or greater than the number of cases that appear before that appeal board at the moment. The government has made no effort in this legislation to provide for additional officers to hear those appeals. There is nothing in the legislation, and no money has been set aside or allocated for the provision of additional officers.

I think perhaps we would be looking at a quagmire, an industrial melee of employer-employee relationships, particularly if there were going to be appeals. It is more likely, I would suggest to you, that people would be appealing their Sunday work allocation rather than a Thursday night or a Wednesday night. It seems to a reasonable person that Sunday work means a significant increase—even if it is only one per cent of all the employees involved—in the strain and tension that will exist in the relationship between management and labour.

Enlightened government, I would suggest, introduces legislation which takes away the strain of employer-employee friction and actually builds legislation that helps employers and workers to work co-operatively together to serve the public. I put it to you that this legislation, as you have quite rightly pointed out, takes away from family values and quality-of-life values, but is actually legislation that will erode significantly the quality of the relationships which exist in the workplace, and that is a tragedy.

Mr. James: It certainly has that potential.

Mr. Hampton: How many stores do you have in the area of Oshawa, Metro Toronto, Brampton, Mississauga and Hamilton? Do you know?

Mr. James: We have 43 stores in Ontario, the majority of them in the area you have just outlined.

Mr. Hampton: How many stores do you have in lower mainland British Columbia?

Mr. James: Ten.

Mr. Hampton: Are they all open in lower mainland British Columbia?

Mr. James: Yes.

Mr. Hampton: How many stores do you have in Calgary and Edmonton?

Mr. James: Seven. I am not going to get marked on this afterwards, am I?

Mr. Hampton: Are they open?

Mr. James: Yes.

Mr. Hampton: Are they open anywhere else in Canada on Sunday?

Mr. James: No.

Mr. Hampton: Why are you open in British Columbia, Edmonton and Calgary?

Mr. James: Because we are forced to, by pressures of the marketplace and/or by the landlord. You can resist, and we did. I want to make that point quite strongly; it feels like perhaps we are speaking out of both sides of our mouth and I think I should clear that up. We did resist, but there is a limit to the degree you can legitimately state your case and resist a landlord who wishes to open his mall, and there are legal and business ramifications. In the end, quite frankly, you make a statement. That is all you are doing.

1120

Mr. Hampton: I want to thank you for answering my next question, because one of the points the Liberal members try to make is that because some merchants feel so strongly about family values or maintaining Sunday as a day off that they do not open, the domino effect does not, therefore, hold true. What they do not realize is there is a clash in values here. There are market values: "How much money can I make? Who can I squeeze?" There are other values saying, "What is more important in life than money?" They are setting up a competition which I think favours the market values, very much at the expense of those other values.

Mr. Ballinger: Those are different municipal structures altogether, and you know it.

Mr. Chairman: Order. You have about eight minutes, Mr. Kanter.

Mr. Kanter: I understand that Marks and Spencer is a very successful company, particularly in the United Kingdom. I was in the United Kingdom recently and they are absolutely everywhere. I think Mrs. Marland referred to the store hours in the United Kingdom, which are considerably more restrictive than here in Canada generally or in Ontario particularly. I was wondering if you might comment a little more generally on this question of store hours. You made a number of references to longer operating hours, increase in operating cost, staffing hours, that kind of thing.

My questions are, first, whether your company found it a substantial adjustment from British hours to Canadian hours, and second, whether you or your company have a preference for greater regulation of hours during the week as well as on Sundays, because it seems to me that many of the arguments you make would be as applicable to evening hours as they would be to Sunday hours.

Mr. James: First, I guess we did have to make some adjustments when we came to Canada from the United Kingdom. The British retailing market is not mall-based; it is High Street-based. It is free-standing, not developer-owned. Therefore, the individual has more individual control, albeit he is affected by the marketplace. Traditional British shopping habits have been clearly more oriented towards Saturday, and certainly Sunday has been strongly resisted and protected as a family day.

There has been, as there has been in other European countries, as indeed there is here, pressure to review the Sunday shopping legislation. Indeed, in Scotland the stores are allowed to open on Sunday, which you might not be aware of. It is for exactly the same reasons that it has been an issue in

Canada, because more of the retailing market in the United Kingdom is moving into covered shopping malls, and that is where the pressure comes from to review the whole Sunday shopping option. It has been debated, I believe, in the House of Commons on more than one occasion. I believe it was defeated the last time it came up for debate.

When we came to Canada, yes, we had to make some adjustments with regard to the way we perceive retailing, and we thought the hours in Canada were excessive.

The next question was, could these arguments be applied to other retailing hours during the week? I think it is easy to relate the two, but I think it is dangerous to relate the two, because Sunday is a family day. It is not a commercial day in the usual way that we see it in Canadian society. I think that is a quantum leap for extending the hours on a Wednesday or a Thursday night. What we are talking about, in my opinion—it is an opinion which is reflected by my company—will have a substantial impact on the social and family fabric of this country. On that basis, it is in a different league. Therefore, I do not wish to associate the two.

The question you asked, I suspect, was whether the same economic arguments could be applied. From that perspective, clearly, how many hours you are open is really a balance between that which is convenient and what the consumer wants, and that which is economically viable.

We would like to see legislation, if it were possible, having some regulation on shopping hours in terms of how late the malls can open. I think that six days a week, from nine o'clock in the morning till 10 o'clock at night, is more than enough for the consumer. It costs the consumer because there are operating costs accordingly.

I would have thought two to three late nights a week—this is my personal view—is enough to give the consumer convenience of shopping without incurring unbearable costs by the consumer. Others might think it should be four. Others might think it should be two.

Certainly in Canada we have got used to, and the economy has come to bear, the four to five nights a week. I think to add the seventh day, as I said before, is a substantial leap forward from that and I would not like to associate the two subjects.

Mr. Kanter: You mentioned that stores were open in Scotland. That is new information to me and probably other members of the committee. Could you elaborate on whether they are open on a regional basis?

Mr. James: I do not know enough about it to comment. I do know that they are. I do know that we, as a retailer in Scotland, therefore, found that we had to open. I have been in Canada since 1973. I do not know the current legislation in Scotland and it would be wrong of me to guess.

Mr. Kanter: I would just like to move into the area of the pressure from landlords that you spoke about. You are probably aware that there is a provision in our bill that prevents people who are in malls from being forced to be open under the term of their current lease. It is section 5a of our bill. I presume you are aware of that provision, which is not found in British Columbia or some of the other jurisdictions you operate in.

Mr. James: Can I ask a question? How would you intend to enforce that?

Mr. Kanter: Basically it states, "A provision in a lease or other agreement that has the effect of requiring a retail business to remain open on a holiday is of no effect even if the lease or agreement was made before the coming into force of the section."

I think it would very clearly prevent the kind of pressure that you were talking about during the term of the lease. If I may continue, I see you want to respond and that is fine.

A number of small retailers have come before us. Then there is Canadian Tire. I do not think anyone would accuse them of being unqualified supporters of this legislation, but they have said they support that particular provision.

We have talked about some legal protection for retailers. Some have said we should go further. Some have said we should try to protect lessees on the renewal of a lease. Is it your view that this could have some effect or is it your view that it is not worth being concerned with this area, that this is not an area this committee should turn its mind to?

Mr. Chairman: This will be the last question and answer.

Mr. James: To provide legislation that would properly protect the retailer in a mall—I just do not see how you could do it. During the term of the lease, I can understand that. I can understand that legislation could be written in such a way as to afford some protection. But in any lease, when you come up for renegotiation, all the landlord has to say is, "We do not like the mix of this mall and we do not like the way..." so you are out of business. You are gone. You are history.

I will tell you that the landlord, if he wished to maintain discipline within the ranks, would certainly not hesitate in making an example. The smaller you are, the easier it is to be made an example of.

Mr. Chairman: Thank you very much, Mr. James. Time has expired. We appreciate you coming forward and presenting the views of Marks and Spencer.

Mrs. Marland: Just before we adjourn, may I ask a question?

Mr. Chairman: Congratulations, Mrs. Marland. I think before she says that, Mrs. Marland had two sons in the Olympics. I watched one of them in the quadra—what are they called?

Mrs. Marland: Coxed—four rowing.

Mr. Chairman: They actually come in third in the semi-finals. I do not know how they did in the finals, but you are to be congratulated.

I heard your voice on CBC. It took me about 40 kilometres before it really triggered that it was you and that you were speaking to us from Seoul, particularly when you made that public announcement.

1130

Mrs. Marland: I was speaking from Seoul on a radio program with my husband and I do not think he got a chance to say very much.

Mr. Kanter: We know how he feels, Margaret.

Mr. Chairman: You had something else, Mrs. Marland.

Mrs. Marland: Thank you for the very kind comments, Mr. Chairman. I really appreciate them.

This is a question on procedure. I realize that I am a substitute member on the committee, but I am very happy to have that opportunity. I am aware that there was a cutoff date for deputations before your committee. I am also aware that there had been a number of requests since the cutoff date, some of them as large and as important to all of us as representatives of regional government. I notice that there is a time slot free tomorrow afternoon at 3:30 p.m. I know that you and I are both aware of the fact that Frank Bean, the regional chairman of the largest regional government in Ontario, has been asking to come as a deputation to this committee, even to the extent of meeting with the minister and asking her to arrange for his deputation.

I am wondering if we have representatives of the public, to the extent that regional chairmen are, and recognizing that they were not in time for the August 5 cutoff date for requests to appear before this committee, could you tell me whether or not there could be unanimous consent by the committee to allow at least the regional chairman, representing in our region 700,000 people—and other regions are equally representative of the people living in those areas—whether the committee could under unanimous consent agree. The other question is whether you would accept a motion from me that tomorrow afternoon at 3:30 p.m. Frank Bean of the region of Peel be permitted to use that time slot?

Mr. Chairman: Mrs. Marland, you have put me in a difficult position. I know you do not do that intentionally, but my being from the region of Peel and having followed the press that the chairman had not had an opportunity, the problem I have—and I do not know whether it is a problem the committee has—is how do you justify him being here as opposed to others? It may be something that we could—

Mrs. Marland: By agreeing to sit, I mean I am sure we only have—what do we have? Seven regional governments in the province?

Mr. Chairman: Yes.

Mrs. Marland: I understand there were requests from other regional governments. It would only mean sitting an extra half-hour to accommodate them.

Mr. Chairman: Yes. I wonder if this is something we could review over lunch and renew when we return. I think it is something we should think about.

Mr. Ballinger: We are always in better spirits.

Mr. Kanter: I would be quite satisfied to do that. I am wondering if the clerk might advise us before we break for lunch how many people might be on a waiting list who would like to appear who applied after the cutoff date, because that information might be useful in how we might decide to deal with this issue. Could the clerk advise us of that?

Clerk of the Committee: I can provide the committee after the lunch break with a list of all of the people.

Mr. Chairman: That will be helpful as well. Thank you, Mrs. Marland. We stand adjourned until 2 p.m.

The committee recessed at 11:36 a.m.

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT

Tuesday, September 27, 1988

Afternoon Sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Philip, Ed (Etobicoke-Rexdale NDP)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

Ballinger, William G. (Durham-York L) for Ms. Poole

Collins, Shirley (Wentworth East L) for Mr. Keyes

Cunningham, Dianne E. (London North PC) for Mr. Sterling

Farnan, Michael (Cambridge NDP) for Mr. Philip

Marland, Margaret (Mississauga South PC) for Mr. Cureatz

Also taking part:

Allen, Richard (Hamilton West NDP)

Clerk: Deller, Deborah

Staff:

Swift, Susan, Research Officer, Legislative Research Service

Witnesses:

From the Coalition to Promote Sunday for People:

Crawford, Ron, Chairman

Johnston, Rev. Dr. John, Secretary-Treasurer

Mitchell, Rt. Rev. Clarence, Suffragan-Bishop, Diocese of Niagara

Caplan, Marvin, Caplan's Gentlemen's Apparel

Sutton, Bob, Hamilton and District Labour Council

Christopherson, David, Alderman, City of Hamilton and Regional Councillor

From High Park Baptist Church:

Edwards, Rev. Keith

Individual Presentation:

Nemet, Gabriel

AFTERNOON SITTING

The committee resumed at 2:06 p.m. in room 151.

Mr. Chairman: I recognize a quorum.

Mr. Farnan: I have a procedural item I would like to deal with.

Mrs. Marland: On a point of order, Mr. Chairman: Can we look at the matter which I had raised and which I also said I would like to address in the form of a motion, if necessary—whatever my wording was?

Mr. Chairman: We will deal with that first. Mr. Farnan is content with that.

Mrs. Marland: Okay.

Mr. Chairman: Do we have unanimous consent to that procedure?

Agreed to.

Mr. Chairman: Thank you, Mr. Farnan. The first delegation this afternoon is—

Mrs. Marland: What are you saying? You are going to deal with my request at 3:30?

Mr. Chairman: We have a group here right now, Mrs. Marland, and I think rather than interfere with the timing of the groups and keep them here unnecessarily, we will deal with it at the end of the day, prior to Mr. Farnan's motion.

Mr. Farnan: The motion would be dealt with at 3:30. Is that right?

Mr. Chairman: You have unanimous consent to that effect, yes; and also unanimous consent dealing with the issue you raised just before lunch at that time as well.

Mr. Kanter: Was Mr. Farnan going to distribute his motion in advance? I was not clear about that.

Mr. Chairman: I understand it is to be distributed.

Mr. Farnan: Yes, I have no objection to that.

Mr. Chairman: I do not want to peek and hold my tongue.

Mr. Farnan: I think it is fair that it be distributed to the media as well as the members.

Mr. Chairman: Are you content with that, Mrs. Marland; that we not hold up the delegations? Is that twisting your arm?

Mrs. Marland: It is rather.

Mr. Chairman: I did not mean to subtly twist your arm.

Mrs. Marland: I do not wish to hold up the delegation either. The only problem pertaining to my motion from this morning is the time factor of giving notice to someone else for tomorrow, but I will accede to your direction.

Mr. Chairman: Thank you.

The first delegation we have this afternoon at two o'clock, or now, is the Coalition to Promote Sunday for People: Ron Crawford, chairman; John Johnston, secretary; Bishop Clarence Mitchell, church representative; Bob Sutton and Maureen McCarthy, labour representatives; Marvin Caplan, business representative; and David Christopherson, alderman, municipal government representative.

Presuming all those people are here, we are going to have to rearrange the chairs. Are all of those people going to be speaking?

Mr. Crawford: There will be five of us speaking. We will bring just one additional chair up.

Mr. Chairman: Okay, that is fine.

Just to assist us, this is all going to be recorded by Hansard and also by the electronic Hansard. Perhaps the main presenter or the opening presenter would identify all of the other people for purposes of Hansard. You have 30 minutes. It is your time. We are here to listen to you. Your brief appears to be brief, but there may be comments from each of the members. If there is any time left of the 30 minutes—and there need not be, but if there is—we will allocate it judiciously among the various parties that are represented on this committee, in equal portions. If you are ready, proceed.

COALITION TO PROMOTE SUNDAY FOR PEOPLE

Mr. Crawford: My name is Ron Crawford, the chairman. On my extreme left is Bishop Clarence Mitchell, from the Hamilton Anglican Diocese of Niagara; next to him is David Christopherson, alderman and regional councillor from Hamilton. On my immediate left is Dr. John Johnson, secretary-treasurer of the coalition and minister at MacNab Street Presbyterian Church. On my extreme right is Marvin Caplan, a businessman from Hamilton, and on my immediate right, Bob Sutton, from Hamilton District Labour Council.

We will be speaking in the order indicated on the cover sheet to our brief. We appreciate the opportunity of making this presentation to your committee. We are a broadly based coalition of small business, church, labour organizations and municipal politicians of the Hamilton-Wentworth region.

It is rare that issues bring such a diverse group with a commonality of purpose, which should give legislators cause to consider the ramifications of the proposed legislation in Bill 113 and Bill 114. It is the considered opinion of our coalition that the thrust of these two bills is so fundamentally flawed that they should be withdrawn rather than amended.

The reason that we take what might be considered such an extreme recommendation is that we consider the thrust of the two bills in question to be based on a wrong premise, and amending them would therefore serve no useful purpose.

In the case of Bill 113, which essentially devolves the responsibility of establishing Sunday store hours on to regional government, the domino effect would take place as municipalities sought to protect the market share for the retailers in this area.

The real losers are the small businesses forced into competition with malls and large department stores. This is the sector which this government has called the engine of the economy. Furthermore, the municipalities do not want this burden of responsibility. They have, indeed, vociferously protested this dereliction of responsibility by the provincial government to protect the quality of life across the province.

In the case of Bill 114, the original announcement purported that employees would be protected from working on Sundays against their will and belief. However, this legislation merely seeks to protect from unfair Sunday labour. In order to gain a job, employees will be at a disadvantage if they are unwilling to work on Sunday, and thus waive any rights to be at their rightful place with their families.

From an educational point of view, Radwanski has documented the adverse effect of part-time employment on student achievement. I might add here that our coalition tends to view this issue as being more appropriate to the standing committee on social development than to the standing committee on administration of justice. There is more at stake than simply equality or fairness. Really, we need to examine the social cost of extending Sunday shopping.

We therefore call upon the government to study the social costs of these measures. What appears to be progressive, we would suggest is retrogressive.

At the conclusion of our presentation, I will take great pleasure in presenting over 12,000 signatures on a petition supporting the intent and recommendation of the all-party committee of the Ontario Legislature and the ruling of the Supreme Court of Canada rejecting wide-open Sunday shopping and recognizing the need of a common pause day for family nurture.

I am calling upon the Premier (Mr. Peterson) to withdraw Bill 113. I am calling upon the government of the province to propose province-wide legislation governing Sunday shopping and upholding Sunday as our common pause day. In the meantime, I call upon the representatives of each of the sectors of our coalition to speak to the legislation from his point of view. We will therefore start with Dr. John Johnston.

Dr. Johnston: What a pleasure to be here and to see on both sides of me representatives from the Hamilton area, Richard Allen and Shirley Collins.

We in Hamilton have felt very much supported not only by the groups that our chairman has mentioned but by municipal government and various levels of government, regional and provincial, that have virtually unanimously said yes to the things that this committee is standing for.

As was said, I represent, with Bishop Mitchell, the 350 congregations in the Hamilton district that have, through their ??judiciaries, unanimously come forth in supporting the position that the bills should be withdrawn. I would like to suggest that if the Legislature or, let us say, the government, does not feel that where this committee stands and the position we uphold is the mind of the people, let them provide a referendum to discover the mind of the people, because I firmly believe that government wants to do what the people seek in this matter.

When we hear that the people do not want this, this is not what we have found in Hamilton. The signatures that will be presented—no one refused. There is not a group in the city that was approached that did not say, "This is where we stand." I could say to you how many groups would be willing to come before you to say the same thing.

For instance, the ??Hamilton Downtown Churches Association met this morning and asked, "Why were we not invited to come?" I have the carbon copy of the letter to the standing committee on administration of justice asking for this committee to report. We did not even get a reply. I do not know where this happens, but what they would say would be exactly what the chairman has said a few moments ago. We live in a steel city of workers. A fairly large percentage, compared with other cities, have to work on Sunday. Do you think they like it? They are unanimously opposed to that position. Those are the people who are saying: "Let's not further erode the day of pause. Because we have to work, it does not mean that others should have to work."

In this coalition, it has been unanimous, including business—the Hamilton Chamber of Commerce, small business, large business. You heard from, for instance, the Canadian Tire people from our area a few days ago. We are 100 per cent saying, please, do not think this is what the people of Ontario want. They want you to withdraw the bill. If you think it is not what they want, ask them, but please represent the minds of the citizens of Ontario, in our case Hamilton and region.

Mr. Caplan: I find myself in a difficult position. I am a small businessman and I am asking the government to interfere more in my life. It is a bit of a dichotomy.

I suppose the recent events at the Olympics are an interesting analogy. I think people should do things fairly. I am willing to compete with big business and I am willing to compete with my shop on a street against a shopping centre, if things are fair. The difficulty comes when the other guy is using steroids and has a scooter waiting for him at the corner and I have one leg tied behind my back. I am willing to work a 60-hour week to compete.

Today, if the truth be known, with my shop, my own personal circumstances are such that I can afford now to be open seven days a week. I have enough staff to do it, but I would not have been able to do that, and I doubt if I would have been able to be successful, if I had opened my shop in a situation in Toronto opposite to the Eaton Centre just after the Eaton Centre opened.

What we are trying to ask you to do is to allow things to compete fairly. Today, shopping centres and developers are getting larger and larger shares of the market. These are the people who are coming to you saying, "People want to shop on Sundays." There is no question, people will shop on Sundays, and that piece of pie will go to the people who are open. What they do not tell you—and from what I have been given to understand, refuse to tell you—is that their leases are so onerous as to totally prevent anyone from staying in business in their centres and not be open on Sundays.

I would ask you to get a copy of a standard lease from Cambridge Leaseholds or Cadillac Fairview, wherein they say not only must you be open mall hours, period, but you are not allowed to discuss mall hours. These are the people with whom I am competing and with whom the stores on the streets of small towns and medium-sized cities across this province are fighting.

Take yourselves out of downtown Toronto for a moment and put yourselves in any small city or town across our province. Picture, if you will, a shopping centre developer coming to these people who now have or will have the authority to say yea or nay to Sunday shopping. Picture yourself on this council and someone comes in, saying: "We're going to invest \$100 million in your city. All you have to do is let us open on Sunday." Can you honestly tell me that you can think of a small city council anywhere in this province that is going to be able to say no to that?

What happens to the storekeepers up and down the streets of that city when Sunday shopping comes? And it will. People will shop on Sundays. There is no question that is going to happen. Every jurisdiction where Sunday shopping has been allowed has made shopping centres stronger and small business weaker.

I am not so sure I agree with Reverend Johnston about a referendum. I believe the purpose of the Legislature is to lead, and I think the onerous difficulty or the onerous task given to you, ladies and gentlemen, is to help shape the kind of society we are going to have. There is no question that in the United States, and to some extent in this country, one of the favourite pastimes we, as a society, have is shopping. I am not so sure, as a retailer even, that I think that is a wonderful way to spend all our leisure time.

I would suggest that one of the things you, as the leaders of our society, should be doing is to help shape it and to help say no to preventing small business from getting started and competing on a fair basis.

1420

Mr. Crawford: I think it is symbolic, at least not planned, that we have our labour representative sitting next to our business representative.

Mr. Chairman: Togetherness.

Mr. Sutton: We are with the Hamilton and District Labour Council, which has (inaudible) unions, some of which have only 10 or 12 members and some large ones. Local 1005, my own local, has 8,080 members at this time.

The labour council has taken the position of being opposed to Sunday store openings. The council also believes it is the responsibility of the provincial government to make any decisions on these hours and not to delegate those responsibilities to the municipalities.

In a manufacturing city like Hamilton, there are already too many employees required to work on Sundays. There should be at least one day in the week that all family members can have together. In large plants, such as Stelco, where I work, they have continuous operations and workers will intentionally take a lower-paying job in order to achieve a shift schedule that will allow them to have a day off with their families. When I say this, I am talking about guys who will take \$1 or \$1.50 an hour less in pay in order to get on a steady day schedule or a schedule that includes nights but gives them Saturday and Sunday off. Sunday and Monday off is a popular schedule, and guys will take \$1 an hour cut in pay to work it.

The other thing that comes up is 12-hour shift schedules. We had a vote on that in the plant last week. The only reason people are looking at the 12-hour shift schedule is that it affords them every second weekend off. They

do not want to work 12-hour shifts, but they want those weekends off with their families.

Before the provincial government makes changes that will eliminate this common pause day, it should consider all the negative effects it will have on family life. Yesterday, when I was putting this together, a shift worker told me that he used to believe stores should be open every Sunday. Why should people not have to work Sunday? He had to. However, he told me that after his wife got a job in a small store and started working Sundays and he saw the disruption it caused in his family, he came out vocally opposed to any Sunday store openings.

Working Sundays also creates special problems for single-parent families. What steps has the province taken or is it going to take to make sure there is adequate quality day care available on Sundays for the children of these families? What kind of life can schoolchildren have if their parents are required to work on Saturdays and Sundays?

The council also has serious doubts about any proposed amendments to the Employment Standards Act to protect workers who refuse to work on Sundays. If an employer decides its employees are going to work Sundays, they are going to work Sundays. The province will not be able to do anything about it. There are already too few inspectors enforcing existing regulations, and we have been unsuccessful in having the employment standards branch do anything as far as investigations or enforcing existing regulations are concerned.

We have had an awful overtime problem at Stelco. Continually for the last four years, we have been chasing inspectors to get in and do something about it. This summer, after the fourth year of complaining to the ministry, I got complaints of guys working 80- and 90-hour workweeks. It is just an example of how ineffective the inspectors are and they are not going to be any more effective when they are dealing with a Sunday store opening.

For consumers, extended store hours are only going to result in higher prices. Consumers only have so much money to spend and only need so many goods, and that is what the store owner is going to find. There is going to be increased overhead to the store owner and he will simply pass that on to the consumer. The store owners may be able to reduce some of the overhead by having fewer store staff, maybe making them work longer hours, and customers are going to find themselves waiting longer for service, but the costs, such as heat, management and lighting are going to have to be paid for by the consumers.

The labour council would like to conclude this by making its position very clear. Sunday shopping is a decision this Legislature has to make, not the municipalities, and the council is opposed to any changes in the legislation as it stands now.

Alderman Christopherson: The Solicitor General (Mrs. Smith) said about a week before the municipal option was announced that it would be the chicken way out. Quite frankly, that is the way our municipality views it. We do not see this as political leadership or any other kind of leadership. It is a question of taking a hot potato and moving it from the provincial arena into the municipal arena.

This legislation will have the effect of denying Hamilton-Wentworth the opportunity to say no. Make no mistake about it. In our opinion, this is legislation for wide-open Sunday shopping. It is camouflaged and it is phased

in by virtue of the municipal option, but the basic element of this legislation is clearly wide-open Sunday shopping. It is just a matter of time before our municipality loses the right to say no by virtue of the pressing reality of economics. If there are enough municipalities surrounding us that have opened up, it is just a question of time before we are forced to buckle under to that pressure and open up our shopping.

From a political point of view, we say to the province: if you want wide-open Sunday shopping, put it forward in that fashion and allow the people an opportunity to use the democratic process to its fullest, whether through a referendum or as an election issue. At the very least, make it a clear-cut piece of legislation. But do not try to camouflage it by using the municipal option because, quite frankly, we do not see it as being any option at all. It is just a question of time before the decision of one municipality, by virtue of the domino effect, will force us to open. In effect, if you pass this legislation, one community decides to open and the rest of them have to fall in line. It is just a question of time. Please pull back this legislation and do what is right.

Mr. Crawford: In the few minutes remaining of our half hour, we would be happy to answer any questions the members of the committee have.

Mr. Chairman: There are 11 minutes remaining. Accordingly, there will be for each caucus three minutes and 40 seconds. I have Mrs. Cunningham and Mrs. Marland sharing three minutes and 40 seconds.

Mrs. Cunningham: I think the title of the group you represent is a very important one, that is, the "Sunday for People" part of it. What I really would like to see is the government withdraw this legislation, take out the municipal option and deal with the two problems they have raised, which is the reason we are even here.

Those are the problems, first, of enforcement, which I do not buy. The present legislation has been upheld in the courts. The committee chairman and certainly the Solicitor General have not brought to our attention any flaws that have not been able to be upheld in the court. You should know that. It is just that no one is enforcing it. The second part is that they say they cannot define "tourism." Of course, Mr. Christopherson will know he has not been asked to assist in the definition or some criteria for tourism.

I wish it would deal with the bill in the way hundreds of people have come to us and stated, the same concerns you have stated. If it did, we could probably call the new legislation, the fixed-up old one, "Sunday for People." I think that is really what Ontario wants. I thank you for making your very strong representation this afternoon.

I was elected in March, in London, Ontario, in a by-election. Probably the foremost issue in the election was Sunday shopping; certainly, London North and the municipal council in London North were very much against it. I think it affected the outcome of the election, and I should tell you, after travelling the province all summer listening to people with the same concerns and tremendously articulate presentations, that I do not think my Liberal colleagues are listening.

I am not certain what will happen, but next week we are doing the clause-by-clause. I guess one of you could talk about lack of leadership here

because I see this government's vision as being people having to work on Sundays.

Mr. Chairman: Are you sharing? There is one minute and 40 seconds left for Mrs. Marland if you are sharing.

1430

Mrs. Cunningham: You have probably spoken to that enough, but I wanted to share with you my thanks for a most articulate brief. We will be using some of your suggestions for recommendations in our own amendments.

Mr. Crawford: Can I respond to that?

Mr. Chairman: Yes.

Mr. Crawford: Alluded to in the introduction to our presentation is the fact that one has a sense that the right hand of the government knoweth not what the left doeth. The Radwanski commission comes forth and very strongly suggests that more student part-time labour is anathema. At the same time, more legislation is coming out that inevitably is going to result in more student labour. I just question the government's rationality on these two directions.

Mrs. Cunningham: As a school board trustee for 14 years in London, I am very much aware of that particular concern. The OSSTF has made it very clear that it is very much concerned about part-time work. But the questions from the Liberals are, "Will you have any trouble finding part-time workers?" The answers from the drugstores are, "Oh, no, we will find some students." They think that is great, so you are quite right in raising it.

Mr. Chairman: I am sorry, Mrs. Marland, but your time has expired.

Mr. Farnan, three minutes and 40 seconds.

Mr. Allen: I will start off. I am not going to ask a question. I simply want to reinforce what this group from Hamilton has said and what it represents.

I sit in a constituency office. Over the months this issue has been before us, I have not had one single representation asking for what the government of Ontario wants this province to do about Sunday. I have had thousands of communications that have told me, "No, don't go that way."

This group represents the whole spectrum of Hamilton. I have not heard any other voices. They are the voice of Hamilton at this point in time. They put the case well to the committee and to the Liberal government of this province. I would hope the voice of Hamilton would at least have some impact in government councils with respect to the future of this legislation.

Mr. Farnan: I will follow up on my colleague's overall remarks. Never have we seen an alliance across the province as we have witnessed from the Hamilton delegation in terms of all different denominations and small and large retailers. We have had mothers appear. We have had children appear before us.

If the government does not want to listen to you, there is a way around

it. They can claim that you are not real people. I want you to listen to Mr. Kanter's words as he was quoted in the Toronto Star and give me your comments:

??"Of the 100 or so briefs we have heard in these two weeks, there has only been a handful of people with real interest who are not reading from a prepared script. We have not seen a ground swell of excitement or interest at the hearings. We have heard from several groups again and again. We are not getting the widest possible sample of public opinion." Kanter said, "It is unfortunate more real people are not presenting themselves."

Would you like to comment on how you are being perceived by members of the governing party?

Mr. Crawford: I am going to call upon Bishop Mitchell, who did not speak earlier, to respond to that.

Mr. Chairman: Bishop Mitchell, perhaps you can change seats with the alderman.

Bishop Mitchell: I think I can probably be heard anyway.

Mr. Chairman: Fine, I am just checking with Hansard. We want to record you.

Bishop Mitchell: Just to continue on from what you said about this human aspect of this controversy, it seems to me that there are two issues here that are polarizing. One is an issue of political reality. Let's face it. The reality is that politically speaking, there are probably commitments that are in effect. Let's face it. That is reality. But the other reality is that human one. Sometimes and in some situations, the human has to take precedence over the political or the economic.

Let's face it, the world in which we live is governed largely by economic realities. We know that; that is a given. But sometimes people have to say, "No, that is not good enough." There is a human element in here that has to be presented and I believe that is what people like ourselves are trying to do, and I would doubt very much if we are the only ones doing this. I would think there are many people across this province saying in effect the same thing as I am trying to say right at the moment, that there is a human reality that should be noted and listened to, and a decision made that says something about humanity and human beings and the humanness of life that transcends the economic and political aspects.

Ms. Collins: First of all, I want to welcome you to the committee and thank you for your input. Some of us have been down this road before on extended store hours in Hamilton-Wentworth. I do not know who would like to do this, but perhaps you can tell the committee what the store hours are now in Hamilton-Wentworth during the rest of the week.

Mr. Caplan: I would love to respond to that. Those people who are in shopping centres are all open. In every single Cadillac Fairview mall, without exception, in Hamilton-Wentworth, every store in them is open the full 12 hours a day, six days a week—five days a week, excuse me; they let them out at seven o'clock on Saturdays except before Christmas—whether or not they wish to be.

The merchants of Mountain Plaza Mall almost unanimously asked their landlord, "Please don't make us stay open." The mall manager appeared before

the committee of Hamilton-Wentworth and said, "I, as the mall manager, do not want to force my tenants to stay open." They are open.

Ms. Collins: Marvin, before you use all my time—

Mr. Caplan: You asked what the situation is, and the other situation—

Ms. Collins: In the downtown area, what are the hours?

Mr. Caplan: They tried staying open in Jackson Square, and the only people who are open now is a chainstore called Bargain Harold's, which is open and which is taking business out of the stores that are closed.

Ms. Collins: Do you have any evidence to show they are taking away business?

Mr. Caplan: Yes, as a matter of fact, they do. If you will take the Ontario sales tax figures, you will notice that the sales tax in the shopping centres has gone up. You know how much business they are doing. You have that as part of the public record.

You will also note that their business has gone up proportionately more than the other stores in Hamilton that are not open longer hours. Those of us who are small businesses are not doing quite as well, thank you, as the shopping centres.

Yes, they do more business. Unfortunately, I cannot tell you how unprofitable it is for the storekeepers and how profitable it is for the landlords who get paid on the volume the stores do, and any increment in expense is borne by the storekeeper. Most of us are opposed to extended store hours.

Ms. Collins: The downtown area, though, is not open every night until nine o'clock, and that is by choice. The law permits them to open every night until nine.

Mr. Caplan: Yes, we do not have a landlord forcing us to stay open; that is correct.

Ms. Collins: This bill also includes a provision that does not allow the mall owner to force the small business person in the mall to open.

Mr. Caplan: Would you like me to respond to that realistically?

Ms. Collins: I am telling you what is in the bill.

Mr. Caplan: I would like to say that is a fairy tale. I have been an operations manager for Dylex. I have been part of the negotiating with Cadillac Fairview, and I will tell you that if you are not going to play ball with them when they own the ball, the bat and the playing field, you will not be invited back again. They are where the action is and if you do not do it their way, you do not get invited back. Your lease does not get renewed.

Mr. Ballinger: I want to address my comments to Alderman Christopherson. Since you are regional councillor for Hamilton-Wentworth, I

was interested in your comments about the domino effect. How many member municipalities make up the region of Hamilton-Wentworth?

Alderman Christopherson: Six.

1440

Mr. Ballinger: I am sorry, I do not know each of the municipalities, but in my experience of seven years on the Durham regional council—

Mr. Chairman: Sorry, Mr. Ballinger, I am just going to stop you for a second. Mr. Christopherson, perhaps you could change with the bishop again. We want to get your answer on Hansard. Go ahead, Mr. Ballinger.

Mr. Ballinger: I was really interested in your comment. Interestingly enough, one of the things I like about the legislation is that flexibility the local option does provide at the regional level, and I say at the regional level; in the entire Golden Horseshoe of Ontario, it is at the regional level.

We wrestled for years on the tourist exemption, tourist designation, definition of a tourist. In your particular area, I would assume that the city of Hamilton is the largest municipality. In your opinion, who would start the domino effect within the region itself? Who is going to start this?

Alderman Christopherson: It probably would not start within the region. One of the driving factors for the extended store hours came actually from Burlington, which is very close to Hamilton, just down the road, and that was the economic pressure.

Mr. Ballinger: Which region are they in?

Alderman Christopherson: They are in Halton.

Mr. Ballinger: Who is going to make that decision for Burlington?

Alderman Christopherson: Halton, I would imagine.

Mr. Ballinger: Halton region. Thank you.

Mr. Chairman: Time has expired. We thank you for coming before us. We appreciate your views and they will be considered by the committee.

Mr. Crawford: Thank you very much for hearing us.

Mr. Chairman: The next delegation we have is High Park Baptist Church, Keith Edwards, pastor. I understand there is no written brief. However, pastor, please come forward.

Mr. Crawford: Could we present the petitions?

Mr. Chairman: I am sorry. Yes, you can table them here. Thank you very much. We will tell the clerk when she comes back that it is a present for her.

Pastor, you have 30 minutes. It is your time; we are here to listen to you. If you choose to use that full 30 minutes for your presentation, by all means do so. If there is time left over, we will distribute it equally among

the three parties that are represented on this committee to ask questions, make statements or whatever. If you would like to proceed, the clock is running.

HIGH PARK BAPTIST CHURCH

Mr. Edwards: Thank you. I count it a privilege to speak to you today and to raise my concern and the concern of our church about the issue of Sunday opening.

As a church, we have been concerned about the flouting of justice, as we perceive it, during this past year as stores have opened in spite of current laws. As a church, we have prayed and do pray regularly for you and others who represent us as citizens here at Queen's Park. I want to encourage you this afternoon, as I begin, as members of the justice committee, with two verses of scripture, something appropriate I guess, from a pastor.

Psalm 33, verse 5, says, "The Lord loves righteousness and justice, the earth is full of his unfailing love." Then, speaking of the political leadership of his day, another author wrote: "Endow the king with your justice, O God, the royal son with your righteousness."

I approach this issue today not as a member of any coalition but as a citizen of this province from birth and a Christian pastor concerned about the implications of the changes proposed by this government.

As a Christian, I observe Sunday with many others in this province as a day of worship and service to Christ. The focus of this day for us is not on the abstinence of work, except of course necessary duties, but rather on worship and service to Christ. I recognize that Ontario is not a Christian province, but I believe the concerns we have for this legislation go beyond our faith.

I invite you to consider that, first of all, open Sundays would have an effect on family life. Our families, including those in High Park, are facing many pressures already, including economic ones, caused by changing work patterns and conditions. Fewer families today seem to even share a common meal because of conflicting schedules. Dad works one shift, mom works another, the kids are tied up in their own routines. What will open Sundays contribute to the family?

Sundays have been for many families and for many years a family day. Even those who are not followers of the Christian faith look forward to the relaxation and refreshment of the weekend. Currently, for many, Friday evening and Saturday provide adequate time for shopping, while Sunday is reserved by many for family outings. Parks and beaches in the fair weather months are filled with families enjoying the beautiful weather and each other's company. If Sunday opening is permitted, changing work patterns will affect family life. When will the families of our province share a common day?

Second, open Sundays would have an effect on the economic life of this province. Proponents of Sunday shopping have argued that revenue will be increased by the seventh-day opening, but can this be proven over a long-term period? After the novelty of Sunday openings has worn off, what will the net weekly increase in revenue be? What would warrant, for example, the average shopper spending money on both days? Where would the average shopper in Ontario find the increased discretionary income for such spending? How would

the increased overhead cost be covered? Would it be through increased prices, as noted here this morning? Would there really be financial gain?

We too share a concern with small businessmen who feel that if large or smaller stores are allowed to open, they too will be forced to stay open or face declining sales. As it currently stands in the real world of mall contracts with small businessmen, stores must stay open on specified days and for specified hours to keep uniformity throughout the mall. What components, I ask, are found in this legislation to protect the small businessman?

Third and most important, open Sundays would have an effect on the political life of this province. We as a church have followed, and I have followed as a pastor with great interest, the reports of these hearings held throughout the province. Granted, if the media accounts are accurate, you may have heard many repeated, prepared scripts against Sunday opening. But does that factor alone prove that only a minority of Ontarians oppose Sunday openings? Obviously, there were some members of the public who did not receive an opportunity to present their cases before you.

I think of residents in the northern Ontario riding of Timiskaming represented by David Ramsay, a riding I personally lived in until 1978. I cite from an article in the Timiskaming Speaker:

"Ms. Cavanagh, a local merchant, said that they, the local committee and herself, had asked Mr. Ramsay to try to get one of the hearings to be held in the area."

The closest hearings for them were in North Bay, a two-hour drive, and Sudbury, over three hours.

"Ms. Cavanagh said it was ironic that as they were trying to set up a date for the meeting with Mr. Ramsay, he was very busy, so they asked if he would be available on a Sunday. His secretary said that Mr. Ramsay liked to have that time for his family.

"A reason this merchant cites for some people not fighting the issue as much is that they are too busy working and earning a living. They do not have the time to fight it and they are being trampled on.

"As for the concept of convenience for those who do want it, 'We are willing to give the convenience to shoppers and the general public as long as they are willing to give too.' While the Sunday shopping act does allow people to refuse to work on Sunday, it places the onus on the employee to have to refuse to work on that day."

How would the opinions of these who have not had a chance to appear before this committee be obtained? Are they to be shut out from this process on this very crucial issue? To quote a much-repeated phrase this day, "Let the people decide." We urge you to recommend a plebiscite.

What are the people of Ontario saying? We feel that on this issue the onus is on this government to prove its case more convincingly. What are the facts? How has Sunday shopping affected other provinces? Are the rights of workers truly protected? Will the majority in Ontario benefit from such a change?

To introduce these changes into law without the majority of public support would mean that the lives of Ontario citizens would be changed without

their consent. That, in our understanding, is a shift away from democracy.

1450

In summary, I raise four important questions that I believe need to be answered by this government for our province.

1. Have you adequately proven that the majority of voters favours Sunday shopping?

2. If—and I quote Mr. Kanter—"thousands and thousands of consumers" want to shop Sunday, why does this government not favour a plebiscite?

3. A related question: Are these "thousands and thousands of consumers" who are ready to buy also ready to work on Sundays?

4. A final question, which each of you must answer: Will justice be administered or denied in this province on this issue?

I conclude by quoting a 1960 editorial which appeared in the Hamilton Spectator. During that year, 19 plebiscites were held throughout the province under local option terms of the Lord's Day Act. The issue before the province was Sunday sports.

"Nothing can be more certain than that if we destroy what remains of this one oasis of rest in the week, we shall be the poorer in health and spirit for it. We should be wise to reflect before we allow restless commercialism...to turn all our days and weeks into an unending treadmill of activity."

Please leave Ontario a rich province by saying no to this legislation.

Mr. Chairman: Thank you very much. There are about 21 minutes left, so seven minutes a caucus.

Mrs. Marland: First, let me commend you on your presentation. Your points are succinct and, I say on behalf of the Progressive Conservative caucus, very well received.

In your reference to the Honourable David Ramsay, the member of the Ontario Liberal government cabinet, whose office said that he could not meet with some of his constituents because he liked to be with his family on Sundays, let me say at the outset that I recognize that as being a position I personally support.

I am sure from the thrust of your comments that you concur also that Mr. Ramsay is attempting to live his hectic, busy life as we would all choose to. But is it not ironic when you think that the issue which his constituents wanted to discuss with him was something they could not discuss with him because it was his preference, his wish, to have Sunday with his family?

I am glad that is Mr. Ramsay's position, because that is going to be a useful thing for us to be able to say in comparison to other people who may have to work as a result of his government's, in particular, his cabinet's, legislation.

Personally, I do not see the legislation before us today as being the legislation of the Ontario Liberal government members as a whole, because at

this point I hope it is a position only of the cabinet, as the backbenchers have not been able to vote on it yet.

You refer to the preferences of people on what they want to do on Sundays and the necessity to obtain opinions. The plebiscite route, of course, is again a delegation of authority to the populace as a whole. It is also an expensive process. Would you not feel that the thousands and thousands upon thousands of names that have been presented in this Legislature by both the New Democratic Party and the Progressive Conservative Party are in fact telling the government what the people of Ontario want about Sunday shopping? Are you aware of any vehicle which has been used by the people of Ontario asking the Ontario Liberal government to have wide-open Sundays?

Mr. Edwards: One of the vehicles used has been letter-writing campaigns, signing of petitions. I think the message has been loud and clear from across the province. I do not think it is related or limited to any one sector of the province; from north to south, east to west, it is a majority opinion that people want their Sundays.

Mrs. Marland: You have obviously been following it very closely. My question on behalf of our caucus is, who is it who is asking for this legislation? Who has asked for the change in the status of Sunday?

Mr. Edwards: Not the people.

Mrs. Marland: No. Exactly. All we have heard from are people who do not want the change. It does beg the question about who is asking for it. There is no question that there are changes which should be made to make the existing legislation more enforceable, not the least of which is the punitive aspect.

Having sat as a member of the Progressive Conservative task force that did the same tour of the province this committee has just done, as did the previous all-party standing committee, I am well aware that we have to yet to hear the kind of expression for having the opportunity for municipalities to be open on Sunday.

What we hear from the government is that it is not saying it is in favour of open Sundays; it is in favour of the municipalities making that decision. But the fact is that nobody is asking for it. The municipalities are saying, "Don't have us make the decision, because of the inequities around the province."

It is interesting. I am sorry that Mr. Ballinger has stepped out, because Mr. Ballinger said earlier this morning that each area of Ontario is different from the others. Well, a family in Timiskaming is not any different from a family in Toronto.

Through your pastoral experience, you must be working with families of all different socioeconomic backgrounds. Do you find that the common day of pause is different relative to socioeconomic backgrounds?

Mr. Edwards: Some, of course, employed in the medical profession are tied up on a given Sunday but, with a choice, they would prefer to have that as a common pause day.

Mrs. Marland: You mentioned you were in Mr. Ramsay's riding. Were you working up there as a pastor?

Mr. Edwards: My home is originally in northern Ontario. I was recently visiting.

Mrs. Marland: I see. In the High Park district, you would have a very broad cross-section of families and employment.

Mr. Edwards: Yes. Small businessmen, labour, quite a wide range of employment opportunities are represented in the church.

Mrs. Marland: And you are finding that people within your own parish but outside of your own church are talking to you and expressing their concerns?

Mr. Edwards: Very definitely. They do not feel they have a hearing.

Mrs. Marland: That is the saddest part, is it not? They have no opportunity to express what their preference is, especially if they happen to be expressing their preference. The MPP for High Park is a member of the Liberal government, and that is a double jeopardy for those people who are opposed.

Mr. Chairman: There do not seem to be any further questions, so we—
Interjection.

Mr. Chairman: Oh. Okay, Mr. Farnan. Seven minutes.

Mr. Farnan: In discussing this issue with another delegation representing a church group, one of the comments it made which sticks in my mind is that the Sabbath is the Sabbath all day, both morning and afternoon. I do not think anyone can argue with that. But as it attempts to placate each of the various groups that are opposed to this legislation, the government will put forward by be some kind of compromise. We can look to Massachusetts where an attempt was made to placate the church groups by saying: "Well, we won't allow stores to open on Sunday morning. We'll only allow opening after 12 noon. In that way people may worship in the morning if they so wish and then they will be free to work in the afternoon, if they are so required by their employers."

How would that kind of compromise fit with you, or how would you perceive it fitting with church groups in general?

1500

Mr. Edwards: I would say it would be very unsatisfactory. I think church groups across all denominations are united in keeping the entire day free.

Mr. Farnan: Sometimes, as we discuss this issue, people are reluctant to introduce the religious aspect because of some problems with the constitutionality of an argument that is based on a religious framework. I find that a little bit sad because I think there is a section of the population, with genuine and committed religious views, that wants to maintain the Sabbath because it is the Sabbath.

I heard the Christian Reformed Church in North America come out with a very bold statement. They said, if I can recall correctly, "The Liberals are destroying a cornerstone of Christianity." How do you think church groups would feel about that statement by the Christian Reformed Church?

Mr. Edwards: Obviously, the Lord's Day Act and the various related pieces of legislation that have been drafted in this Legislature over a period of time have reflected the Christian heritage brought into Ontario in the formative years. Any attempt by this government or by any other government to change that, to chop away at that heritage, will be fought to the bitter end by church groups.

Mr. Farnan: I like the phrase you have just used, "to chip away." I think, in reality, that is the process we are in; and, in a sense, that is probably what makes this odious legislation palatable, in the sense that it does not destroy all at once, but it chips away. I really think you have hit on a form of erosion of traditional values.

Mr. Edwards: I agree.

Mr. Farnan: The sun will not fall out of the sky when this legislation is passed, and it may take several years before we see the social effects on families.

Mr. Edwards: Agreed.

Mr. Farnan: I have said to this committee on one occasion that perhaps 25 or 30 years from now, when social historians look back on the past 30 years and ask what has happened in our society, they will see if indeed there has been an erosion of family values. We will not be able to blame it all on this legislation, because there are many factors that attack the family unit. But I think social historians may indeed say that the legislation, which was brought down by the Liberal government, was one of the factors that led to the erosion of the family unit. Would you comment on that?

Mr. Edwards: Frankly, I think it is just one more nail in the coffin, in destroying the fabric of family life which is so vital. It is the fabric of our province, of our nation. This legislation does not enhance family life. It is attacking and undermining it.

Mr. Farnan: Pastor, I want to thank you for appearing before this committee today and for putting in very straightforward Christian terms and religious terms a defence for the Sabbath. I think that is a voice that should be heard. It is a voice because of the constitutionality and because of the manner in which our whole legal system is based, and somehow it has been pushed aside.

Because it has been pushed aside, it does not mean that it does not exist. I think there are hundreds of thousands of people in Ontario out there who share that Christian value system and those traditional value systems with you. I think you do us all a service when you remind the Liberal government that these values are important to the people of Ontario, and that it is meddling with these values at its peril. So thank you, Pastor. I appreciate your presentation.

Mr. Kanter: Pastor, you spoke in rather general philosophic terms about the issue and I wonder if I may comment in kind, although I may end up with one particular question. In dealing with the reality of Ontario's

workplace today, you almost suggested that this legislation would bring about a marked departure from the past and, subsequently, there has been some discussion about some period of time it might take.

One of the things that really struck me, as a member of this committee, is how many people in Ontario work today. We are not talking just about police, firefighters, health care, essential services, the steel plant in Hamilton, mining in Sudbury, recreational workers, fast-food workers, the hospitality industry, tourism, retailers or people in the retail sector in tourist areas.

One of the concerns I have, if you like, of a philosophical nature is how uncaring it almost seems when we say that we are terribly concerned about what might happen in the future; yet many, many people are working now on Sundays. This is not a radical change. There has been an evolution in Ontario and there are more people working now on Sundays than there were 100 years ago or 50 or 20.

Mr. Edwards: Agreed.

Mr. Kanter: But there are a considerable number of people working now, and I guess that leads me to the next philosophical question, if you will, of who is out there buying all those goods and services, especially in the retail sector, and especially in the restaurant industry and things like that. It seems to me there may be occasions when some of the representatives of the same groups we see before us, church groups, labour groups, municipal groups, regular folks, "real people" if you want to use that phrase, are among the people doing some of that buying.

That leads me to the third question of who should decide to what extent we should regulate or leave it to the marketplace. Let me assure you, and I am sure you are aware, that this government has not decided to leave it to the marketplace as some American jurisdictions have, as British Columbia has in Canada, but rather, we have decided to set up a provincial law which says places shall be closed, and we are leaving convenience stores open, and small drugstores. It is very difficult to decide what is a drugstore today but we have decided, and we have taken more than a little criticism, to leave some local flexibility in the bill.

Now, we get to the question: Given the fact that we are continuing in the tradition of leaving some local flexibility that has been in the Retail Business Holidays Act for the past 10 or 15 years, do we leave it where it is best left? Is it just something that we should take away from the municipality and give back to the province which has not had it since 1975, or should we leave it at the municipal level?

The example you gave of the riding of Timiskaming seems to me to be a perfect example. You talked about how difficult it was for folks to travel from Timiskaming to North Bay or Sudbury. Surely they are better off having some part of that decision, having input into that decision at Timiskaming city hall or Temagami city hall—I am not exactly sure what the municipal structure is up there, quite frankly. You know this better than I do.

Surely it is easier for them to have their input at the local level, and maybe we can take some steps to increase their input and increase their sense of comfort at the local level. Surely it is easier for them to do that than to come down here to Queen's Park. As difficult as it is would have been for them to go to North Bay or Sudbury, it would have been even more difficult to come

to Toronto. Surely there are some advantages as well as disadvantages to leaving some of this decision-making at the local level. The last part is intended as a question. The earlier part was perhaps more along rhetorical lines.

1510

Mr. Edwards: May I go back and comment on Bill 114? Subsection 39i(1) reads: "No employer or person acting on behalf of an employer shall, (a) dismiss or threaten to dismiss an employee; (b) discipline or suspend an employee; (c) impose any penalty on an employee; or (d) intimidate or coerce an employee."

You noted the number of people who are currently working Sundays, and I agree that has increased.

Mr. Kanter: This bill will cover those people.

Mr. Edwards: Right, but one thing excluded from that section, as I understand it, is "(e) refuse to hire an employee." You are dealing with people who are already employed. How about the hiring practices of a new employee? What if a person refuses to work? I refer to cases I have heard of just recently in other provinces, where the person in the hiring interview refuses to work and says, "I am a Christian and I will not work Sundays."

That has meant the termination of that job. The offer of that job has gone out the window for them. Sure, someone else will fill the job. The vacancy will be cared for, but that person has just done himself or herself out of a job, even though he or she is qualified and maybe even more qualified than the person who ends up with the job. How do you respond to that?

Mr. Kanter: My understanding of the law, and I do not know how much time we have---

Mr. Chairman: Approximately 10 seconds.

Mr. Kanter: Thank you. My understanding of the law is that the Ontario Human Rights Code does protect an employee who does not wish to work for reasons of religious conviction. It is a clear-cut protection of a slightly different nature, the protection contained in this bill.

One of the discussions we have been having is about the way that can be communicated more clearly to people, whether it would be wise or legally proper to refer to it in this bill or whether it more appropriately stands separate and apart in the Ontario Human Rights Code.

You have raised an important concern, I believe, one which has been addressed by legislation, albeit different legislation from Bill 114. I appreciate your bringing that to our attention.

Mr. Edwards: Just a quick comment on the areas of northern Ontario where people did not have access. It would of course be much easier for them to go to a municipal government and make their views known, but if the majority of citizens and voters across this province disfavour or oppose Sunday shopping, why do you insist on advocating it?

Mr. Kanter: We are certainly not advocating it. We have travelled to

a number of municipalities which have had Sunday shopping, which have tourist exemptions. I do not recall any of them coming to us and saying, "Take away—

Mr. Edwards: Well, you are advocating—

Mr. Chairman: I am going to have to jump in here. Time has expired. Thank you very much, Pastor. We appreciate your views.

The next deputant—

Ms. Collins: On a point of order, Mr. Chairman: Just before we continue with the next delegation, there was the delegation here from Hamilton. I questioned one of the delegates on business in downtown Hamilton. I asked him if he had information or evidence to support what he was saying. At this committee he said he did have evidence. I have found out since then that there is no evidence available and I would not want the committee to be misled on that testimony.

Mr. Chairman: That is a correction of the record, but it is not a point of order.

Mr. Farnan: I think the record should also show—

Mr. Chairman: The point of order has been disposed of.

Mr. Farnan: I think this is relevant to the member's statement. Since I was also party to the conversation for some of the time with the delegate in question from Hamilton, I would add that the delegate indicated that—

Mr. Chairman: Is this a point of order that you have raised?

Mr. Farnan: Yes.

Mr. Chairman: I have disposed of the point of order.

Mr. Farnan: The delegate had, through his conversations with various individual businessmen within the community, been able to establish that. Now that may not be the scientific kind of evidence—

Mr. Chairman: It is also not a point of order.

Mr. Farnan: I thought it was relevant, though.

Mr. Chairman: It may be relevant. Lots of things are relevant here, but we do abide by the rules.

Mr. Farnan: Thank you, Mr. Chairman. I apologize.

Mr. Chairman: That is quite all right.

What I was going to say was that the next deputant, William Minna, cannot be with us today due to a death in his family. We do, however, have Gabriel Nemet, who was to appear before us on another occasion and did not present himself. I am advised that he had attempted to have the date on which he was to appear changed, and Mr. Nemet is here today and wishes to fill the

slot Mr. Minna would have had. I put those facts before the committee so that you can decide what you wish to do.

The only thing I would put before you as well is the fact that we have in the past filled holes where people had not previously had an appointment with the committee and, as you may recall, we had limited them to 10 minutes. This is slightly different in that Mr. Nemet did have a prior appointment and did not attend and, as a result, we did not fill that spot.

Finally, I would simply state that it does not appear as though the Canadian Tire delegation is here, so perhaps you should have that thrown into the mix as well, to decide how we proceed.

Mr. Kanter: We would consent to Mr. Nemet appearing, and then we will deal with Canadian Tire if they are here.

Mr. Chairman: We perhaps should wait, as we do not have a representative from the third party here.

Mr. Farnan: We can still go ahead.

Mr. Chairman: I require unanimous consent.

Mr. Chiarelli: Of those present. You have a quorum.

Mr. Chairman: All right. Is this for 30 minutes or for 10 minutes?

Mr. Sola: The regulation time, 30 minutes.

Mr. Chairman: The only thing I would caution is that you are deviating from the previous position we took.

Mr. Sola: He was scheduled to appear here.

Mr. Chairman: Not today he was not. He was scheduled to appear on another occasion and did not appear, nor were we notified that he was not going to appear. That is what I understand.

Mr. Kanter: Was he scheduled to appear in Toronto and have 30 minutes, or was he scheduled to appear out of town and have 20?

Clerk of the Committee: In Toronto for 30.

Mr. Kanter: Can I make a motion that the committee hear a submission from Mr. Nemet for 30 minutes, starting now?

Mr. Chairman: We will not need a motion if there is unanimous consent that we hear him. Is there unanimous consent?

Agreed to.

Mr. Chairman: Fine. Mr. Nemet, would you like to come forward?

GABRIEL NEMET

Mr. Nemet: Thank you, Mr. Chairman and members of the committee. I really do not think I will have to take the full 30 minutes. I do not have a very lengthy presentation. I appreciate your giving me the time, because I

think my presentation, from what I have listened to so far, is a little bit different because I am affected in that I am a retail worker. I work in the retail trade.

Let me begin by giving my reasons for appearing before this committee. My number one reason is that I am against Sunday shopping. Two, I believe that by appearing before a parliamentary committee a citizen should be able to have influence on government decisions. I very strongly believe in parliamentary democracy.

Why am I against Sunday shopping? My reasons are not religious or political, I have selfish, personal reasons. I work in the retail trade, and that is good and sufficient reason to be against Sunday shopping. I can and will detail all the objections a retail employee has against this issue before you. But before I do that, I would like to express my bafflement as to why anyone would really push for wide-open seven-day shopping.

Is there a need for it? The answer is no. There is no need for Sunday shopping. If you cannot do your shopping in six days, a 72-hour week, there is something wrong. Six days a week is sufficient to do all the shopping in the world. How can anyone make a valid claim that Sunday shopping is a necessity?

The management of Simpsons and the Bay want Sunday shopping—I listened to their presentation at the North York committee—even to the extent that they claimed they will challenge the law if it stays as it is now. What is their justification for such an attitude? We are losing money right now. We are desperate for any scheme that would turn us around.

1520

I wonder if Bay or Simpson's employees are as enthusiastic about working on Sunday as the management. All surveys and recent polls indicate that an astonishing 90 per cent of retail employees are against Sunday shopping. With the shortage of labour in all industries, those retailers who plan to open Sundays will have very serious problems in staffing their stores.

Seven-day shopping can boost sales volume in the short run, but common sense tells us it cannot continue to provide increased sales in the long run. You are just spreading the time for buying. The amount of sales will not necessarily be increased by seven-day shopping.

Why are retail workers against Sunday shopping? The main reason is that it is the only day they can spend quality time with their families. Let's follow a retail employee through the workweek. Monday is a day that all retail workers who work the five-day week would love to have as their day off, since that would mean a long weekend, Sunday and Monday. However, Monday is the day when stores have to be cleaned up and racks have to be filled after the busy Saturday. Monday is not the ideal day for a day off. Saturday is also a terrible day to be away from a store. That is the busiest day of the week.

So most retail employees have their day off during the week. This is the day they do their own shopping, have doctors' appointments or go to the cleaners. That only leaves Sunday for the family. You cannot take your school-age kids to the Royal Ontario Museum, to the art gallery or to the zoo on a school day midweek. The children are attending school.

I am a father and grandfather. Sunday was the day when I took all my kids to the museum and art galleries. My children are all successful,

taxpaying citizens. I am proud of them. I do not think, with Sunday shopping, I could have devoted the time needed for the development of the family feeling needed to acquire the respect and love afforded me by my children.

What happens if someone in a retail store calls in sick? The manager gets on the phone to contact those people who have their day off. There is the pressure of the six-day workweek right now in certain circumstances. That Sunday is desperately needed for the retail worker, not even talking about managers of stores who have to fill in time, evenings. Members of the committee, when you make your presentation and your decision, think of the retail worker. He needs that Sunday.

There was a lot of negative feedback in the media regarding the futility of this committee hearing. There seems to be a frustration with the process, and the consensus is that the government's mind is made up on this issue and nothing is going to change, no matter how many presentations are made.

I do not agree with this. Obviously, if I felt that way, I would not be here today. It is true that majority governments tend to acquire a certain feeling of omniscience that makes them feel that whatever they propose is right and whoever feels differently is just obnoxious opposition. This was the arrogance of Diefenbaker, Trudeau and the early couple of years of the Mulroney regime.

Somehow I feel Premier David Peterson and his cabinet cannot but be frustrated by the overwhelming opposition to the municipal option they proposed, that they did make a mistake. It is not that hard. Sometimes you have to admit, "We made a mistake." How many presentations have been made to this committee that favoured that municipal option?

The gall of Mr. Agnew, who threatens to break the law if it stays as it is, cannot be the type of presentation that will persuade this committee or the government of Ontario that they are on the right track. That is the desperate proposal of an executive of a chain that chalked up millions of dollars in losses in the past years.

All the polls, and I am sure the majority of presentations heard by this committee, are against wide-open Sunday shopping. Why would the government go against the wish of the majority on this issue?

I am here today because I believe that by speaking out I can make a difference. This committee has to listen to the majority of the people of this province. Premier Peterson's government has to pay attention. This option, I am quite confident, will not become the law.

The retail employers are against it. The majority of the retail employees are against it. I heard Canadian Tire mentioned. I know Sears is against it. I know major chains and small businessmen are against it. The mayors and municipalities are against it. I understand the mayor of London, Mr. Peterson's riding, is against wide-open Sunday shopping. Why fight for it?

This committee should, and I hope will, recommend against this option. That is my presentation. Thank you very much.

The Vice-Chairman: Thank you, Mr. Nemet. There are five minutes a caucus.

Mr. Sola: Mr. Nemet, at first I thought you were not going to tie in your brief to Bill 113, but near the end there you did mention local option. You are absolutely certain in your mind that local option will lead to wide-open Sundays.

Mr. Nemet: That is my opinion. I live in Thornhill, which borders on North York. The mayor of North York, Mr. Lastman, is an advocate of Sunday shopping. If North York passes it, and alongside of Steeles Avenue the stores are open, on the north side of Steeles Avenue the retailer cannot help but be open to compete with the south side of Steeles Avenue.

Mr. Sola: I think it has been pointed out time and again, especially by my colleague Mr. Ballinger, that in this area, the Golden Horseshoe, it would be regional government that would be making the decision, not the local government, so your mayor would have input into what Mayor Lastman was attempting.

I would like to turn to another tack now. Are you satisfied with the present law we have today?

Mr. Nemet: I am. I think the present law as it is has been working. I know there have been problems about defining "tourist area." I am not here to tell this committee or the government how to resolve that, but in their wisdom I am sure they can.

Mr. Sola: Right, but as a retail worker, are you aware that presently up to 31 per cent of retail workers in Ontario have to work some Sundays or are eligible to work some Sundays, according to the minister's statistics?

Mr. Nemet: Yes, but the remaining 69 per cent are not and I am speaking on behalf of the remaining 69 per cent.

Mr. Sola: Are you also aware that most unions and union representatives who have appeared before this committee and who oppose Bill 113 and have analysed the legislation have calculated that after the bill is passed up to 33 per cent would work Sundays?

Mr. Nemet: I am not familiar with that.

Mr. Sola: There is a two per cent differential between what the present law allows and what has been indicated by the best estimates of most of the studies of the labour unions which have come before the committee?

Although they are opposed to the legislation, their calculations show that Bill 113 is essentially a holding of the line, a matter of maintaining the status quo. What we are attempting to do is to tighten up those loopholes in the law that are being abused at the present time so that enforcement will be easier, fines will be increased and injunctions can be imposed when necessary. From that, I wonder if you would take a second look at your objection.

1530

Mr. Nemet: I would like to see how they arrived at that two per cent figure.

Mr. Sola: No, they say 33 per cent.

Mr. Nemet: Two per cent more than are open today. I would disagree with that. I cannot see, with business as competitive as it is, that only two per cent more retailers would open under the new bill than are open today.

Mr. Sola: On the other hand, of those 31 per cent, are you not concerned that they have to work?

Mr. Nemet: Of course I am.

Mr. Sola: Right now you are presenting the case for the future where the other 69 per cent may be forced to work if, according to your interpretation, all the worst aspects of the bill come to fruition.

But I am saying, if you are concerned about those who do not have to work, you should also be concerned about those who presently have to work. What can be done to protect them? I think the accompanying Bill 114 is at least a step in that direction. Nobody is completely satisfied with it, but it will provide some semblance of protection for those who are currently working Sundays.

Mr. Nemet: I cannot see that it will eliminate any of the 31 per cent.

Mr. Hampton: I will give you a chance to answer Mr. Sola's last comment because the timepiece that the chairman keeps cut you off. If you want to make some comments to Mr. Sola, please do.

Mr. Nemet: That is fine. Go ahead.

Mr. Hampton: If you feel a little bit mesmerized by some of the statistics that Mr. Sola gave to you, do not feel you are alone. We have had a plethora of statistics out of the government on this, but really not much evidence.

Sometimes we are told that so many thousands of people are working. Sometimes we are told that so many thousands of people are eligible to work. It is a very difficult thing to arrive at. In fact, we had an economist here who is a high-profile member of the Liberal Party, who called some of the statistics that are being bandied about, I believe; "spurious at best." So do not feel you are alone.

I think you have hit upon the important thing, however; that is when you do interview or do talk to a majority of people who work in the retail trade, they are not interested in working on Sunday. I am glad you brought that forward again and emphasized it again.

Let me ask you another question. Do you think that, say, extra wages, time and a quarter, would enthruse people about working on Sunday?

Mr. Nemet: There are some, of course, for whom it is important to have that extra money. I am not from the same religious persuasion as the person before me. However, I think family life, whatever the religion, is important. For the family to have quality time to get together, the only day, if you are in the retail trade, is Sunday because, as I said, if you have

school-aged children and you are off on a Tuesday, you cannot take them to the art gallery.

My kids always went to McMichael, they went to the Art Gallery of Ontario and they went to the Royal Ontario Museum but not on a weekday. They went on a Sunday. That aspect of the family life, I think, should outweigh the importance of an extra dollar an hour. I have not touched on, because I did not want to really drag this out, the aspect of the single parent who in the retail trade is very prevalent. That single parent needs that Sunday to spend time with his or her kids.

Mr. Hampton: You would say then that even if additional wages or a higher wage rate were offered for retail working on Sunday, that would not balance what would be lost?

Mr. Nemet: No.

Mr. Hampton: I do not know if you were here for the group that was here about an hour ago. One of the things they said in their brief—and I concur with this because it is the experience in my community—was that in a manufacturing city like Hamilton, there are already too many employees who are required to work on Sundays, manufacturing employees. In large plants such as Stelco, which has continuous operations, workers will intentionally take lower-paying jobs in order to achieve a shift schedule which will allow them Sundays off.

Mr. Nemet: Yes, that surprised me. I heard that.

Mr. Hampton: We have the same experience in my community. It is a paper mill town, a continuous operation. Because of the nature of the product, and they are very high-paying jobs, the people will get off the paper machine crew in order to have that time off. It is a loss in pay.

Mrs. Marland: You started your presentation by talking about why you were here and your belief in a democracy and in the influence that the people should have on a government decision. I agree with your comment. That would, hopefully, be in the minds of most people who live in a free, democratic state, as we do in Canada and provincially.

I am sure you share the concern of those thousands of people in Ontario who went into an election one year ago believing they understood what Ontario's Liberal Party stood for when it said it would not make changes to the existing Sunday shopping legislation, using the colloquial description of that act.

Now that you are sitting where you are and finding that you have to come before this all-party committee, and because you are here, I know you are very aware of what has been going on and that up to now you can tell both by what you have read in the media and the questions you have even heard today that the Liberal government is not changing its position—

Mr. Nemet: I am not so certain about that. I have faith that they will change their position.

Mrs. Marland: That is really encouraging that you do have that faith. My impression is that the Liberal Party in Ontario briefs its members

daily on what the latest statistics are or the latest argument that has been developed in support of its legislation.

Mr. Kanter: I have missed some of those. I guess I must not be on track.

Mrs. Cunningham: You have not heard any in support; that is the problem.

Mr. Hampton: You are still looking for the real people.

Mrs. Marland: It is the Liberal Party's support for its own legislation; it is not the public's support.

Mr. Nemet: No, it is not.

Mrs. Marland: Looking to the previous deputation, perhaps you heard Mr. Kanter saying that when you look at the numbers of people who are already working on Sundays, not only the public service areas, as Mr. Kanter mentioned, but other people, I am wondering what kind of thoughts you drew from his comments.

My own were the fact that if you have a mess, you compound it, or if you have rats in the hold of the ship, you just throw more rats down there and compound the problems.

Mr. Kanter: Are you suggesting that people who work on Sundays are rats? Quite shocking.

Mrs. Marland: I am not making a comparison, as Mr. Kanter is suggesting, that people who work on Sundays are rats. The comparison I am making purely is that if you have a problem for some people who have to work on Sundays and it is already an existing problem for them and for their families, why would you compound it by opening broader the necessity for people to work on Sunday and the effect it has on their home life?

Mr. Nemet: I agree with that. I do not know if it is a necessity for convenience stores to be open so that people can go and buy things. There might be justification for that, that they need a quart of milk or whatever. But to have a furniture store or a clothing store open on a Sunday—72 hours a week should be sufficient for them to acquire that clothing, that piece of furniture, jewellery or whatever it is. To me, there is no justification whatsoever for forcing that situation on the retailer to have a wide-open Sunday.

1540

Mrs. Marland: Of course, our North American culture is very interesting from the standpoint that we do find it necessary to have convenience stores open. However, try to buy a jug of milk in Britain after 5:30 p.m. or even some Wednesday afternoons, and certainly on Sundays it is out of the question.

There are as many blue-collar workers per capita in the British Isles as there are in Canada, if not more, certainly more than in Ontario, when you look at the number of people employed in industry. Is it not interesting that it is like when they closed the gas stations down in Metro Toronto at seven o'clock at night; everybody found he had to buy his gas before seven.

Mr. Chairman: We appreciate your presentation, Mr. Nemet. Thank you very much.

The next deputation, Canadian Tire, I understand has not appeared.

Mr. Kanter: Could I suggest a very brief recess, perhaps five minutes? Then we will return to consider the two motions.

Mr. Chairman: The chairman never interferes when it comes to a recess. We will adjourn, then, until 3:50 p.m.

The committee recessed at 3:42 p.m.

1556

Mr. Chairman: We are a few minutes over the time that we adjourned until. As I indicated, the Canadian Tire delegation scheduled for 3:30 p.m. is not here. Accordingly, we will proceed, as we had decided by unanimous consent earlier on, to deal with a matter that was brought to our attention by Mrs. Marland.

Mrs. Marland: I will just pick up where we left off this morning on my request to have unanimous consent of this committee to have Frank Bean, who is chairman of the regional municipality of Peel, appear before this committee.

As I said this morning, I recognize that his request to speak on behalf of the region did come in after the deadline for requests to appear, and therefore the scheduling had already taken place for the hearings of this committee around the province. I recognize that there have been a number of requests that came in late.

Mr. Chairman: Does every member have that list that was asked for before them, by the way?

Mrs. Marland: However, my particular request on behalf of Chairman Frank Bean is because he is chairman of the largest regional municipality in this province, a regional municipal government now representing almost three quarters of a million people. If they were to have the municipal option, the decision in the Golden Horseshoe area would in fact be made by regional government. This committee and we, as members of this Legislature, have not heard from a regional government chairman. We have one in Chairman Frank Bean.

Mr. Chiarelli: On a point of order, Mr. Chairman: Could we have the motion on the floor so that we can relate maybe a little more specifically to the comments that are being made?

Mr. Chairman: All right. Since you anticipate there will not be unanimous consent, it will have to be by motion. Perhaps you could put the motion on the floor and then we can continue.

Mrs. Marland: I thought the committee would prefer me to give the background of why I was making the request so that we did not open the floodgates of concern from the general public to be heard, and I thought that Mr. Chiarelli would have wanted that to be made very clear.

Mr. Chairman: Well, there has been a request, a point of order. It is appropriate that if unanimous consent is being denied, and I presume it is—

Mr. Chiarelli: No, not necessarily. It is just the wording of the motion, and then she will be obviously talking to a motion.

Mr. Chairman: If it could be done by unanimous consent, then there would be no need for a motion. Perhaps we should first determine if there is unanimous consent.

Mr. Chiarelli: It is the "it" I am referring to. What is the "it" we are giving unanimous consent to?

Mr. Chairman: Well, no motion would be required if there were unanimous consent to have Mr. Bean appear. Perhaps I could just hold you up for one second, Mrs. Marland.

Are you speaking to the point of order, Mr. Ballinger?

Mr. Ballinger: With the greatest respect for Mrs. Marland, I think she should be careful on the lead-in to the justification for the request. There has been a time frame. There have been many people in Ontario requesting. I do not have any problem, but I would be awfully careful from the pitch you are using, quite honestly, to justify the invitation.

Mr. Chairman: We are not to that point yet.

Mr. Ballinger: If she is looking for support, I would trust that she is a little—

Mr. Chairman: We are dealing with the point of order that Mr. Chiarelli raised. I will rule that point of order is in order if in fact unanimous consent is being denied this request, in which case I will ask Mrs. Marland to put a motion. If unanimous consent is being given, then there is no need for a motion, and therefore Mr. Chiarelli's point of order will be ruled against.

Mr. Chiarelli: What is she asking unanimous consent for? That is my question.

Mr. Chairman: All right. I think what we will do is allow Mrs. Marland to tell us what she is asking unanimous consent for, which I presume is pretty self-evident. Perhaps you can tell us just very succinctly what you are asking for. We already have a good idea.

Mr. Ballinger: Just state it; don't sell it.

Mrs. Marland: I want to tell you right off the bat that I am not going crawling on my hands and knees to ask this request.

Mr. Ballinger: I do not mean that.

Mr. Chairman: We are not asking you that. Can I assume—

Mr. Ballinger: Nobody is asking for that. Come on, be fair.

Mrs. Marland: Mr. Ballinger said he would have thought that if I wanted support, I would have done it some other way.

What I am requesting on behalf of—since my riding of Mississauga South is part of the regional municipality of Peel, again I will say the regional municipality of Peel is one of the regional governments within the Golden Horseshoe area which will have to apply the local option as a regional government.

Mr. Chairman: You are arguing the point, Mrs. Marland. If you could put your request—

Mrs. Marland: For that reason, Frank Bean, the chairman of the region of Peel, who did request to appear before this committee, even to the extent that he went to Solicitor General (Mrs. Smith) herself—

Mr. Chairman: Mrs. Marland—

Mrs. Marland: I am here now asking that Frank Bean's request to appear before this committee and address this committee on behalf of the people who live in the region of Peel be granted by unanimous consent.

Mr. Chairman: When?

Mrs. Marland: At a time that is mutually acceptable to Chairman Frank Bean, recognizing that the agenda before us does—

Mr. Chairman: There is a time tomorrow at 3:30 p.m.

Mrs. Marland: —have at the moment an opening tomorrow. I do not know if that is still available because I recognize there have been some changes.

Mr. Chairman: Is that what you are asking? All right. That having been stated—

Mrs. Marland: Or if he was not available tomorrow, obviously he could be accommodated on Thursday since you are into clause-by-clause next week.

Mr. Chairman: Is there unanimous consent to either/or?

Mr. Ballinger: I can only speak for myself. I do not have any problem with tomorrow at 3:30 p.m., but I trust, Mr. Chairman, that we are not getting into a flexible schedule all of a sudden when the deadline for applications was publicly known and advertised.

There is a time slot tomorrow and Mrs. Marland suggested earlier today that she would be interested if we could support that time slot tomorrow. I personally do not have any difficulty provided we are talking about the 3:30 slot tomorrow, but I hope we are not going to get into a flexibility situation when it is mutually convenient.

Mr. Hampton: I think we have shown some flexibility, as was shown earlier here today when the gentleman did not present himself and someone else presented himself in the missing person's stead. I think permitting the honourable gentleman to appear tomorrow at 3:30 p.m. means we are simply allowing a hole to be filled in our schedule.

I am amenable to that but I am not amenable to switching the schedule around, because then I think we are doing a real unfairness to the people we have already denied. If there is an apparent hole there and somebody says, "I am convenient and I can fill it," that is fine.

Mr. Chairman: Do I take it from what has been said that there is unanimous consent that Chairman Bean of the region of Peel will fill in the 3:30 slot tomorrow?

Agreed to.

Mr. Chairman: The next item is the matter of Mr. Farnan's motion, which I will read.

Mr. Farnan moves that it be resolved that the standing committee on the administration of justice when it reports Bill 113 and Bill 114 to the Legislature include the recommendation that the Legislature sit on Sundays for a period of six months prior to these bills being moved for third reading.

I have considered the motion and I have determined that the motion is not in order. Accordingly, it is nondebatable. It is not in order for the following reasons. The motion is anticipatory in that it assumes the committee will report Bills 113 and 114 to the Legislature. This will not be known to be the case until clause-by-clause consideration of the bills has been completed. In addition, the motion does not deal with the matter referred by the Legislature to this committee. The Legislature authorized this committee to examine and inquire into Bills 113 and Bill 114, and the motion does not specifically deal with that subject matter. Instead, it proposes a change in the meeting time of the Legislature established by standing order 2(a).

If Mr. Farnan wishes to recommend that the Legislature sit on Sundays, the correct procedure to follow is to make that recommendation to the standing committee on the Legislative Assembly, which is the body empowered to amend the standing orders.

Interjection.

Mr. Chairman: I might point out to you that that is my ruling, which is nondebatable.

Mr. Farnan: I would like to challenge the chair.

Mr. Chairman: All right. Mr. Farnan has issued a challenge to the ruling of the chair.

Mr. Ballinger: Another Farnan epistle.

Mr. Chairman: All those in favour—

Mrs. Marland: Could you tell us under which rule your decision is nondebatable?

Mr. Chairman: Under rule 42: "Whenever the Speaker"—in this case, the chairman of the committee—"is of the opinion that a motion offered to the House is contrary to the rules and privileges of parliament, he shall apprise the House thereof immediately, before putting the question thereon, and may quote the rule of authority applicable."

Mrs. Marland: Okay. You have made the decision, but—

Mr. Chairman: Well—

Mrs. Marland: No. With respect, Mr. Chairman—

Mr. Chairman: Mrs. Marland, it is either nondebatable or it is not nondebatable, and I am ruling that it is nondebatable. Again, you have the opportunity to—

Mrs. Marland: But in what you just read you quote—

Mr. Chairman: There has been an appeal to the ruling which is not debatable. Without trying to sound overburdening, I am simply putting in place the rules that govern our procedure. Accordingly, there has been a challenge to the chair. I am required to put forward to the committee: Those in favour of upholding the chair?

Mrs. Marland: It says you must state the rule under which you made your decision.

Mr. Farnan: Mr. Chairman, would you please state the rule on which you based your decision? This is very important.

Mrs. Marland: That is right.

Mr. Farnan: You are making a ruling. You are not basing it on a rule, and I think it is incumbent upon the chairman to show knowledge of the procedures by stating the section under which you are making this ruling.

Mr. Chiarelli: Under what section are you challenging the chair?

Clerk of the Committee: He has already appealed the ruling and—

Mr. Chairman: You have appealed the ruling. Once the appeal to the ruling has been made, it is nondebatable. Therefore, there is no other way to deal with it other than to appeal the ruling of the chair.

Those in favour of upholding the chair? Those opposed to upholding the chair? The chair is upheld. The ruling stands. We will adjourn until ten o'clock tomorrow morning in this room.

The committee adjourned at 4:07 p.m.

CAZON
XC14
-578

J-33

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT

Wednesday, September 28, 1988

Morning and Afternoon Sitzings



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Philip, Ed (Etobicoke-Rexdale NDP)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

Ballinger, William G. (Durham-York L) for Ms. Poole

Collins, Shirley (Wentworth East L) for Mr. Keyes

Cunningham, Dianne E. (London North PC) for Mr. Sterling

Farnan, Michael (Cambridge NDP) for Mr. Hampton

Clerk: Deller, Deborah

Witnesses:

From Japan Camera Centre/Pro Hardware:

Shariff, Firoz, Owner-Operator

From Idomo Furniture Warehouse International:

de Boer, Gerrit, Owner

Individual Presentations:

Hamilton, Grant

Scott, Rev. Dr. Graham A. D.

From the Swansea Clergy Association:

Oliver, Rev. Dr. Dennis

From Sunnybrook Foods Ltd.:

Goodbaum, David, Vice-President

From Pollocks Home Hardware:

Wakulat, John, President and General Manager

Simmill, William G., Assistant Manager

Individual Presentation:

Carpenter, Carole

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, September 28, 1988

The committee met at 10:05 a.m. in the Amethyst Room

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT
(continued)

Consideration of Bill 113, An Act to amend the Retail Business Holidays Act, and Bill 114, An Act to amend the Employment Standards Act.

Mr. Chairman: I recognize a quorum. The first delegation before us is the Japan Camera Centre/Pro Hardware, Firoz Shariff. Did I pronounce that correctly?

Mr. Shariff: That is correct.

Mr. Chairman: Let's come forward, Mr. Shariff. You are the owner/operator. Be good enough to have a seat.

JAPAN CAMERA CENTRE/PRO HARDWARE

Mr. Shariff: Thank you.

Mr. Chairman: You have 30 minutes to make your presentation to the committee. It is your time. We are here to listen to you. If you choose to use all of that that is your prerogative. If there is time left over I will then distribute it equally amongst the three parties that are represented on this committee. So, if you would like to proceed.

Mr. Shariff: Thank you very much, Mr. Chairman. Honourable Committee Members, M.P.P.'s, I would like to point out that I am a franchisee owner/operator of two businesses located at Yonge and Eglinton and another one I don't like to put you on the spot, Mr. Callaghan, but at Bramalea City Centre right in Brampton.

I would like to begin by thanking you for allowing me to address you on such an important and emotional subject which may affect the lives of

countless thousands across this great province.

I would like to state I stand against the opening of businesses on Sundays. A few more words can be spoken about this important issue that this committee may not have already heard, but there are still a few aspects of this matter that I would like to respectfully present to you.

First when it comes to an employer that may not be able to enforce Sunday working hours on an employee, we employ 30 people and, having spoken to every one of them individually, every single one of them is opposed to working on Sundays.

I would like to pose a question as to who I can count on to come and work on Sundays when every single one of my employees is against it.

As retailers we are having an extremely difficult time trying to hire employees at this present time. Many of them who can be potentially good and acceptable employees refuse employment when I even ask them to work during the evenings or during Saturdays. The mere thought of even presenting the possibility of a Sunday opening is enough to scare them away.

The other force that people have talked about is senior citizens as the next natural dimension of potential Sunday employees. Yes, we have tried senior citizens. A lot of them are very happy to spend Sundays with their grandchildren. Some of them who we have tried to contact to look like potential employees have asked to be paid under the table because they do get some benefits from the government and they do not want to go over the limits at which time they will have to pay extra taxes. Unfortunately, this is not possible at our end, so that avenue or option is out for us.

Next the government may believe they can provide legislation so that landlords cannot enforce Sunday opening on their tenants. I feel this is a very naive judgment since only tenants know the true might of his landlords who are able to exert very subtle coercion and thereby threaten the existence of a retail business.

I am referring to retail business in malls that are owner/operated. This may not

necessarily apply to chains and large groups of businesses that are run by managers.

This brings me to the next point which is that if Sunday shopping is permitted on a provincial basis, stores in malls will then attempt to transform or metamorphasize to stores that are run by chains or run by managers and not by owners. Owners, operators like myself and I am sure there are hundreds of them, will slowly phase out or think of phasing out the moment Sundays -- the moment we start talking about Sunday openings. The day of the owner/operator, the day when we can provide good customer service will finally be over. Is this what we want?

Another point against Sunday shopping that I would like to re-emphasize is where are the workers in Ontario? There are help wanted signs in every store in this province. Where are we going to find the people to fill these jobs? Some of the stores that can be open on Sundays or if we were to open on Sundays, we would have to run some of the services in these stores. A prime example is one of my stores is a hardware store where we do cut keys, where we do mix paint. If I was to open that store on Sunday without any employees I would be running cash. There would be nobody to mix the paint or cut the keys. I would put up signs on those machines saying that these services are not operational on Sundays. This would put me in direct jeopardy with the landlord because I would be violating the landlord/tenant lease which does specify that all services to be provided by my store have to be provided any time I am open.

Of course I am sure the committee knows that times that the store in any mall can be open is when the mall wants a store to be open.

Another point that I have discussed with the Minister of Labour and haven't received a satisfactory answer is the governments as they will enact legislation where employees cannot be forced to work. I am an owner of a business, but also an employee of the corporation that owns it. Can I, therefore, be forced to work if I refuse to work? What department of the government will look after my interests?

We all know that the moment legislation is passed where the decision whether to open on Sundays

or not is passed on to the municipalities the domino effect will prevail and Sunday shopping will be a reality.

In conclusion I would like to remind the committee with all due respect, that to the best of my knowledge, the Liberal party which is now in power had never raised the issue of Sunday shopping on their platform before elections. The Tories had. Many of us who voted against the Tories just because of that.

I plead with the committee as a business owner who will personally have to work all seven days to provide good customer service, to keep prices low, to make a decent living, please be reasonable. It is still not too late to change the decision.

Thank you very much, Mr. Chairman.

Mr. Chairman: Thank you very much, Mr. Shariff. It is 24 minutes, eight minutes to caucus. I don't see any hands. Maybe there are no questions. Mr. Farnham.

Mr. Farnham: Thank you, Mr. Shariff, for appearing before the committee and for your brief. I am interested in several of the points that you raised and I think they substantiate some of the evidence that the committee has already heard. You talked about employer/employee relationships and the problems caused by enforcement.

If all 30 of your employees are opposed obviously that will put a strain on the relationship that exists within your company. I think a good employer is interested in developing good relationships and good workers are interested in developing a cohesive relationship with their employer. I think we have heard from small business people across the province who have said that the quality of the relationship that exists between them and their employees is very special.

Would you argue that Bill 114 is legislation that negatively affects the quality of the relationship between the employer and the employee?

Mr. Shariff: Honourable Minister, Bill 114, is that the legislation for Sunday ...

Mr. Farnham: The labour legislation.

Mr. Shariff: Quite so, Honourable Minister, especially at this present time where in the retail sector the pressure to raise wages is very extreme. In the wholesale distribution sector, employees are being offered \$12 an hour to work eight to four. We have no chance of even coming close to that. We are running a very tight battle with wages as it is. The personal relationships have to be developed and these are the relationships that we count on to counteract any wage pressures at our level.

It is very tight to maintain these kind of relationships. We have to give in to our employees on quite a number of points to push them into working Sunday hours. I don't know if the committee is aware, but at the present time employees are really under strain. All Ontario is under ...

Mr. Farnham: Let me ask you if the employees are scared of this possibility?

Mr. Shariff: I have not discussed that possibility with them.

Mr. Farnham: I would like to share with you. We had a delegation, I am not sure where it was, it was up north, but we had an employee in a retail store appear before us, her voice was cracked because she was scared of appearing before us. She asked to be unidentified. She didn't want her boss to know that she wanted -- was opposed to working on Sunday -- but because she was appearing before a committee she had to identify herself.

You asked a question who is going to work on Sundays? Would you agree that probably we are looking at more students working on Sundays?

Mr. Shariff: That is a possibility except if you know the student force has been quite exhausted. Students -- I doubt whether there are students out in the field today who want to work part-time and have not been able to find jobs. There are help wanted signs in every store in every mall placed in front in the outlying areas.

Mr. Farnham: I would like to share with you, sir, a letter received by the committee.

Yesterday we had a delegation that said that the Rodwanski report was actually recommending that there be less work for students so they could concentrate on their studies and that in fact the right-hand of the government didn't know what the left-hand of the government was doing.

On the one hand we were creating a situation where more jobs would be demanded of students, while on the other hand, we are bringing forward legislation which will encourage students to be working on the weekend. This is what the students had to write:

"The undersigned are full-time students and these are the reasons why we are against Sunday shopping. We go to school five days a week, work after school and all day Saturdays. This leaves us one day, Sunday, to relax, spend time with our friends and families and advance in our studies. If you encourage Sunday shopping we will be forced to work Sundays. Therefore we are already limited in our school work by working six days a week. In order to obtain a good career in life we need a good education. Sunday openings would result in either having to quit work which supplies our savings for future education or our scholastic standing would suffer even more, which again limits our future education."

I share that with you because I think it is a crucial aspect ...

Mr. Ballinger: It is all wrong.

Mr. Farnham: ... of the future of Ontario that indeed this legislation is sacrificing the educational quality of the future of young people in Ontario.

I would like to come now to your final point, the Liberal party has never raised the issue of Sunday shopping before the election. In fact I would put it to you that the Liberal party gave the impression that they were prepared to accept the results of the all party committee and the all party committee recognized the common pause day and did not accept what is being proposed in this legislation.

It was only after we had an election that the Liberals changed their mind. Do you feel

disappointed? Do you feel in a sense betrayed, or do you feel, for example, that there should be some relationship between what a party says in an election and what they do after an election? Is there in essence something that speaks to honesty and integrity in government that has been breached by the actions of the Liberal government on this issue?

Mr. Shariff: I would like to add a few points on this issue, but there was a disappointment factor on that basis, yes. I felt betrayed by that particular decision. At least the Tories came on straight ahead and said that they wanted Sunday shopping and this may have caused, you know, a lot of people to vote against them.

I know now people won't go for that.

Mr. Farnham: I was not conscious of the Conservative party taking that stand and I am sure my colleague Mrs. Cunningham will rectify that shortly, but let me say ...

Mr. Ballinger: And we will wait with bated breath.

Mr. Farnham: Since we have been having hearings across Ontario and we have heard from hundreds of individuals and groups representing tens of thousands or hundreds of thousands of people, one delegation with 12,000 signatures from Hamilton.

Since that time the Solicitor General has said this legislation on the local option which is the domino effect section is non-negotiable. The Premier has said it will not be watered down. The parliamentary assistant Mr. Kanter has said it will not be withdrawn from the legislation that was brought forward by this committee.

There is going to be no change. How do you feel about a government that goes out, listens to the voice of the people and then says "It doesn't matter what the people tell us. We are not going to listen to them anyway."?

Mr. Shariff: Honourable Minister, I don't believe if I can influence any change I would not be here. I am here at great stress to myself and to my businesses, because I had to make a point. I believe there might be somebody, lots of people across the

country who feel the same way. I don't think anything is cast in stone. Even the government ...

Mr. Farnham: The game isn't over until it is over.

Mr. Chairman: Thank you, Mr. Farnham. Mrs. Cunningham, you have eight minutes.

Mrs. Cunningham: Thank you for appearing before the committee today. I share your faith and trust in the democratic process. I am from London, Ontario and I was elected in March in a by-election. I am the Conservative member of this committee and one of the big issues in that by-election was Sunday shopping, and because the Liberals have introduced this Bill which will impact on the increased numbers of people having to work on Sundays, I think that has significant impact on my being elected because I am very much against extended Sunday shopping, and it is basically for the reasons you have brought before us and that is the impact, the negative impact on the quality of family life for me is the first problem.

The second one that goes hand in hand with it, is that really the issue is people don't want to work on Sunday if they don't really have to work on Sunday. So, I thank you for appearing.

I should tell you that I have inherited certain positions in coming before this as a member of this legislature, and one of them in fact was the committee that you were talking about and about a year ago or a little more than that, you are quite right, Mr. Grossman did think that the majority of people in Ontario wanted Sunday shopping and he therefore sent out a committee across the province, not unlike the Premier has done now, and he sought their input and what they told him was a great surprise, at least to Mr. Grossman, and as a result the committee came forth with some recommendations and he changed his mind and there is always, I think, confusion on the part of the public because some of these issues are difficult to understand, but he did change his mind and the two recommendations I think from that committee that he stood behind are two that are important to this committee and one was that the province of Ontario support a common day of pause which is not part of this legislation and the other one was that the province of Ontario take the lead responsibility in the definition

of the tourist area and in setting the tone for this province and that is not inherent in this legislation.

I just wanted to clarify that and tell you that a year later the people are saying exactly the same thing. They don't want to work on Sunday. They want a common pause day and they don't like this Bill. Thanks for coming and adding to the voice. I do have a couple of questions for you though.

You talked a little bit about the difficulty in finding good people to work in retail or in finding people to work in retail and I have shared your observation in looking at the signs in the windows. It has been brought to our attention in the last few weeks. You are in a mall, you are in two malls?

Mr. Shariff: Two malls, yes.

Mrs. Cunningham: Tell me where they are again?

Mr. Shariff: One is at Bramalea City Centre and the other is at Yonge Eglinton Centre, right at Yonge and Eglinton.

Mrs. Cunningham: Okay. One is where Mr. Callahan lives, lucky Mr. Callahan, his citizens have come forth. They really like him. They would love to be able to vote for him.

Mr. Shariff: And so they do.

Mrs. Cunningham: We do too. You know, we really do. We think it is awful that a great guy like that is stuck with this legislation and we hope the committee will sort of change things around.

Mr. Shariff: I am sure Mr. Callahan is pretty neutral when it comes to chairing the committee.

Mrs. Cunningham: He is extremely neutral. We will see him in action later today. You know, Mr. Ballinger, has turned out to be somewhat pleasant too which is a real surprise.

Mr. Ballinger: Your accolades ...

Mrs. Cunningham: Would you describe to

us --you mentioned the lease thing. There is a clause in this new Bill that says, you know, if you have problems with the lease they can't tell you that you have to open on Sunday. How realistic is that?

Mr. Shariff: Okay. On paper everything is very idealistic. Yes, you can tell the landlord that if I, as a store owner, do not open there is nothing they can do, but the pressures are always there. I mean all you have to do is go in default of the mall and they can make things very difficult for you, small things like, if your rent cheque is late a day they can put you in default. If your sign standing outside your storefront is accidentally put outside the lease line that can put you in default of the landlord. They can send you a default notice. If you have music in the store that is heard outside that can put you in default of the lease.

These are tactics that landlords always use. They have the accumulated files and they will never bring them out unless they want to exert pressures on you. These can be used as minor weapons against you if they want to renew your lease or if they want you to renovate your storefront.

I, at the present time, they are exerting pressure on me to renovate my storefront because the mall is renovated. I do not really want to renovate that storefront and I am going along with it because I do realize that they are a mighty force. I would like to delay for time in doing that, but I don't have much time, so I am giving in to that aspect.

If it comes to Sunday shopping they say we are going to stay open, I am not going to be the only store not open because the rest of the chain stores and chain stores do tend to be open. The owner/operated stores are the ones that are going to face the problems. The chain stores will always get managers who work 35 to 40 hours on a rotating basis and they can always find assistant managers to keep the stores open, but how are you going to find an owner that will work 72 plus another 12, 84 hours a week on a continuous basis?

Mrs. Cunningham: In a very small business.

Mr. Shariff: That is right.

Mrs. Cunningham: The question as I originally put it, was how would the part of the Bill that says they can't make you open on Sundays, how will that affect you? You give me some examples of how other things affect you ...

Mr. Shariff: I think the Bill cannot enforce the landlord strongly enough to not take action against a tenant. I mean, you know, how is the Bill going to protect coercive pressure on a tenant? Subtle coercive pressure, how will those kinds of things emerge in a situation like this?

Mrs. Cunningham: I think most of the people who have appeared before us say there are subtle things that can happen. Many of us don't understand but I think the point just raised if you will expand upon it, is that some of the larger retailers won't have so much difficulty in finding employees to work or managers you mentioned, but you as a small businessman with about 30 employees in two different locations ...

Mr. Shariff: That is right.

Mrs. Cunningham: It is a real problem for you.

Mr. Shariff: Our business is an owner/operated business. We do provide service where the customer comes in and they know that the owner is there and that is one of the reasons we tend to do well because they address their questions, or their inquiries straight to the owner. The fact that the owner is there is a very strong enhancer to the profitability of the business. If I kept managers there we would not be able to make any kind of sales or the kind of profits that we hope to make.

Mrs. Cunningham: They like to see you. Thank you very much.

Mr. Chairman: Mr. Kanter, eight minutes.

Mr. Kanter: Thank you. I would like to thank Mr. Shariff for taking the time and trouble to come and speak to us. We are particularly interested in hearing from people like yourself who are on the front lines of this law, whatever changes there might be in it, and it sounds like you have a pretty good appreciation of part of the law relating to the local

option provision, but I would like to explore the law in a little more detail.

I don't know whether you have had a chance to actually read it. It is a little difficult for people sometimes to get copies or to read it, but are you aware of the overriding provincial law, the part of the law that says no person shall sell goods on Sundays or holidays? Are you aware that will continue to be part of the law in Ontario?

Mr. Shariff: After this legislation?

Mr. Kanter: That is right.

Mr. Shariff: I am not aware of it.

Mr. Kanter: I appreciate that in some cases that has not been very well communicated. Perhaps I take some responsibility and my colleagues for not having done that, but I think the first point I would like to make is that section 2 of the Bill which comes right after the definition says "No person shall open on Sunday."

Now, one of the problems that we have had that you are probably aware of, are some of the stores that have been open under the present law, I live in Toronto, like I represent a riding not too far from your Yonge and Eglinton store, and I recently got a brochure from a large store, it had the word "drug" in its title, but I noted on the front cover they had bread and inside they had various merchandise. I think they had some hardware goods. I am not sure if they have cameras, and one of our concerns has been that there is a lot of unfairness under the current law, and I guess my next question would be are you aware of some of the problems that very large stores masquerading or pretending to be drug stores have been open under the current law, and are you aware that this law will shut them down?

Mr. Shariff: I am aware of the former point and, as I stated previously, I am not aware of the latter.

Mr. Kanter: Because one of the concerns that we have had, quite frankly, is that there is a lot of unfairness out there and a lot of retailers come to us and they have said "We don't mind competing, but we don't like the fact ..." I can speak of a small

merchant on Bloor Street, I represent part of Bloor Street, who has a sign in his window saying "We sell stationery. How come we have to be closed on Sundays when a drug store just up the street sells the same kinds of goods and products particularly as people are going back to school?"

This is one of the areas we have been trying to do, particularly with very large stores. Many department stores or grocery stores and that is one of the things our Bill addresses. We are going to shut down the very large stores that sell some drugs on the side.

I guess your main area of concern, I take it, is the local option and I guess another point of the law that I just want to review with you is the fact that if a council, a metro council or regional council, metro Toronto or region of Peel, I think those are the two areas you are in, if they decide not to do anything the provincial law stays. The tougher provincial law stays in effect, tougher than the current law.

A lot of stores will be shut down when our new law comes into effect, stores that are now open that are getting around the law. But, I guess your concern would be what would happen if the regional council would take action to change it? I think that would be the situation.

Now, I understand that Mr. Bean, the Regional Chairman of Peel is going to be coming before us this afternoon. I stand corrected. I understood that Mr. Bean, the Regional Chairman of Peel, wanted to appear before this committee, but there have been some problems with his scheduling. I understand his position and the position of the Council of Peel is opposed to changing the law on Sundays.

One of our concerns has been how we can help people like you to get your voice across where it counts. It is not so hard for you to come here to Queen's Park. I don't know where you live, but I know where you run your stores and I presume it is not so far. Someone came to us the other day and talked about people in Temagami riding, or Temiskaming, very far northern Ontario, and they said they had a problem to getting access to where the decisions are made. Our Committee traveled throughout Ontario.

We went to four communities in northern Ontario and yet we were still two hours away from that community and he made the point that it is very hard for people to get their views known. One of the things we are trying to do is see how we can make it easier for people like you and also people who live in northern Ontario, Temagami, east or wherever, to have some input, some real input into these decisions.

Let me assure you that we are certainly listening. My colleagues on the Liberal side and I believe colleagues on all sides, whatever they might say for the press, we are listening to your concerns. We are seeing how we can give you a greater role in this decision and this issue is one we found that goes beyond the borders of Ontario. It goes beyond Ontario to other provinces, to the United States and Scotland, we heard yesterday. It is not something that is unique to Ontario.

We are working on ways of incorporating your concerns, making sure you have a right to be heard and I certainly agree with your faith that appearances by people like yourself can improve the legislation.

So, I am very glad you appeared.

Mr. Shariff: Will it change or be withdrawn?

Mr. Kanter: I think we will be able to improve it. I wouldn't necessarily expect we would withdraw it.

Mr. Shariff: We are hoping on that.

Mr. Kanter: I think we will be able to go some considerable way but the reality of politics is we will have to try and make laws that are as fair as possible for everyone including but not limited to retailers.

Mr. Shariff: I know but sometimes like in Mr. Grossman's case a mistake can be made.

Mr. Kanter: One might think several mistakes were made in the case of Mr. Grossman.

Mr. Shariff: We made a mistake. You

told us. You will have a majority next parliament if you win the election.

Mrs. Cunningham: Keep listening to the witness. Continue on.

Mr. Ballinger: The Chairman ...

Mr. Chairman: I was trying to keep the troops in line. You have 45 seconds.

Mr. Kanter: I have no further comments, Mr. Chairman.

Mr. Chairman: Thank you for coming forward and sharing your views with us. It has been helpful to the committee. Thank you.

The next delegation is Idomo, Mr. Gerrit de Boer. You have thirty minutes. That time is yours.

Mr. de Boer: I will not be cut off at eleven o'clock?

Mr. Chairman: You have thirty minutes. You have until ten after, roughly, or nine minutes after. That time is all yours. If you choose to use all of it for your presentation, that is your prerogative. If there is time left over I will take that time and divide it amongst the three parties represented on this committee. Would you like to proceed?

IDOMO

Mr. de Boer: Yesterday on re-reading several newspaper clippings I tore up my presentation for today and threw it in the garbage. Most of it is still there and so luckily is the anger associated with it. The frustrations of my anger broke when I realized deep down that I did not want to appear in front of this committee. I realized I did not want to appear because I wanted to leave myself some last vestiges of self-respect. Under the muzzled mandate of the Premier's office, this committee was not really concerned about my opinions.

Ron, with your comments given to the press last week again, people are being written off

that are spending a lot of time preparing for these hearings. On talking to a Liberal MPP yesterday he told me this committee has been taken through the gears and more than once treated disrespectfully.

I would be further ahead with positive suggestions but respect is a two-way street. If the "decision has been made" and certain mandates set, why go through the process of frustrating people so that they too become disrespectful? Is it surprising that they become disrespectful when you take away their dignity?

Bob, as Chairman, you went into these hearings alluding to the rough times ahead. Some of those rough times, including mine, would have been more positive if people felt they had dialogue and were working in an open framework.

As most of you know I put out a newspaper ad in January of this year out of concern for a pause day for retail employees. I only did so, after phoning the Premier's office and getting no reply to my messages.

I have had correspondence with Cabinet Ministers and I would like to thank all of you Liberals, NDP and Conservatives for your computerized letters, but to date ten months later and ten presentations later, I have not had the decency of even one computerized letter from the Premier, and this is the open government that David Peterson is talking about?

I still have to be respectful. Positive!

I was respectful and positive when I met Herschel Ezrin the Premier's principal secretary on February 22nd. I brushed my shoes, combed my hair, I was told within one week I would have comments back on my proposal, which I thought was a positive acceptable accommodation.

Ten months later no comments from Herschel, but still I have to be respectful. Positive!

Do I try again, now that Ezrin does not control the Premier after October the 16th?

Why the reversal?

In August of '87 David Peterson said he planned no major changes of the Sunday closing law. He was listening to the select committee when he said that " The sense of the committee was that there was widespread support in Ontario for a pause day, and I accept that advice ... and I don't plan any immediate changes."

The select committee's major first recommendation was that "Legislation relating to retailing on holidays, should remain that of the provincial government."

However, in December the Star reported that "Months ago back before the provincial election Premier David Peterson had already decided to make Sunday shopping legal for any municipality that wanted stores open that day."

When the Premier was already on the election trail, Peterson's principal secretary, Herschel Ezrin, was keen to make the promise of a more open Sunday shopping part of the Liberal election platform. Ezrin thought it would add to Peterson's image as a modern Liberal.

Is this true?

If so, why the letters to Frank Troiani and others that the status quo would stand?

Is the Premier letting his personal values override what the majority of Ontarions want?

But what does Herschel Ezrin's "modern Liberal" consist of?

The "modern Liberal" would chip away at the long weekend that retail employees now enjoy, occasionally, with their statutory holidays, as well as one weekend day off.

The "modern Liberal" as a major part of their information kits gives us, from the Solicitor General, "the politics of Sunday closing laws in the U.S.," where I guess the modern Liberal resides.

The "modern Liberal" is yuppiness personified.

Where is the pressure that dictates the municipal option?

The pressure is not from the municipalities. They realize that local option is no option, when municipalities are packed together and can't act independently.

The pressure is not from the courts. They have clearly upheld the current law against wide open Sunday shopping. They have also emphasized that there are benefits to a common pause day. The pressure for wide open Sunday shopping is not from the people of Ontario.

The majority of Ontario voters don't want it. Over 57 per cent of them have said so.

The pressure is not from the majority of retailers. They do not want to open their stores and work on Sundays. The pressure is not from the overwhelming majority of retail employees. They want to spend Sundays with their family and friends. No matter what type of labour legislation is brought in, the subtle pressure will force people to work or lose their jobs.

The pressure is not from the people of London north. They realize that everything the government is doing will slowly but surely lead to wide open Sunday shopping.

I received a letter from a concerned citizen who has written to the Premier five times but received no reply. I can sympathize with his frustration. Is the pressure coming from him?

Where are the pressures coming from that dictate the course of a municipal option?

Where?

Can you justify forcing municipal options on to the majority of municipalities that don't want them?

I find it uncomprehending that when the majority of municipalities say they don't want Sunday shopping you try to foist it on them anyway.

In January Premier David Peterson, Premier Peterson said Lastman's shopping plan is fine, according to the Star headline.

Laureano Leone, MPP for Downsview is, however, busily writing Mel Lastman congratulating him for withdrawing "the pro Sunday shopping motion from tonight's council meeting" although of course "I agree with my government's position".

You both can't eat the same cake, David and Laureano.

What position would you have put Art Eggleton in if Mel had won? Art wants a common pause day, but would he have a choice? If North York had gone the municipal route and even if it was allowed by Metro Toronto, do you really think Vaughan Township in an adjoining region would allow a retail shift and lose its commercial base?

It would be "total chaos" if one municipality has Sunday shopping and its neighbour does not. Don't tell me differently, Ron.

For years the municipalities have wanted real authority in deciding certain issues on their own. What do the municipalities get? The authority for beer and wine or the authority to regulate strip joints?

In May of this year a transit plan was unveiled including the regions of Peel, York, Durham and Metro.

Then Premier David Peterson said "Dynamic growth is turning municipal boundaries into invisible boundaries." Dynamic growth is turning municipal boundaries into invisible municipal boundaries.

Here we have four regions combining and all of a sudden we have invisible boundaries.

We, therefore, also have an invisible local option.

What does a municipal option mean as far as the social and economic structure of Ontario? What does the municipal option mean as far as changing the

basic fabric of Ontario retailing?

Basically when urban or near-urban municipalities change to Sunday shopping they do so because of the close proximity to each other. The Golden Horseshoe will gradually but inevitably move to wide-open Sunday shopping if this process you control is allowed.

No municipality wants to see its tax base eroded or have the constant pressure of developers to change its policies.

There will be a few rural municipalities that will hold out on principle but the option to hold out is not really an option as they decline in economic activity and lose a thriving main street retail base. Consumers will drift to the stores in urban/suburban centres where developers will set up their malls with their rent based on a percentage of sales and where the emphasis is on seven-day consumerism.

The economic base of small retailers is tough enough as it is and if Sunday shopping is implemented the added pressures of having to work on both Saturday and Sunday when their kids are at home will have even more small town retailers throw in the towel.

Why do some malls and developers promote wide open Sunday shopping and sometimes I consider this also as the Bill of Cadillac Fairview?

One of the controversies in the present debate was when Cadillac Fairview and its lawyers found a loophole to open their malls for stores under 5000 square feet on Sunday, December 27, 1987.

I am not accusing Cadillac Fairview, but the number of calls I have had from mall independents all across Ontario is phenomenal. Some are actually afraid to speak out, which is surprising to me, for they are afraid they will lose their leases the next time they come up for renewal. Mall leases are usually a percentage of sales and of course that extra revenue is what the mall owners want.

What are the malls in reality?

The malls are the new town centres of

Ontario; some of them actually calling themselves that.

But are they really town centres?

In certain respects town centres are feudal kingdoms where the merchants have no real say.

We are not even allowed to distribute pamphlets to independent merchants in their own stores about Sunday shopping. In one mall in which we have a store we were actually marched back to our own store by security guards. They wouldn't let us communicate via pamphlet to our neighbours in their stores. I felt that we were in a feudal kingdom of the 1600's without my freedom of expression. I cannot even express myself to my neighbour next door in a mall?

Independent mall retailers were afraid to put their names in full page ads in Toronto and St. Catharines which I find astounding. Bob, \$4,000 was brought me from your riding alone for one of those ads and all of them were cheques around \$150 to \$200.

Most leases now state the retailers must conform to the hours of the malls. This means if the mall owners want to be open on Sunday they have to be open. There is legislation to protect them during this transition period under Bill 113 section 5(a) but what happens during the next lease negotiation?

Legislation stating that mall owners are not to force stores open on Sunday simply won't work. We know that if a mall owner wants retailers out, any unrelated clause in a 50-page lease can put them against a stone wall and in negotiations for their next lease.

Some retailers have been told that for not opening on December 27th their lease would be looked at, or the question was asked "When is your next lease negotiation?" I sympathize with you because you can never enforce any legislation to overcome such subtle pressure.

Mr. Geoffrey Harrison of Cadillac Fairview told me that there would be no repercussions against mall independents during the transition period, but after the re-education of the consumer the mall independents would come around, but I am sorry, I as a consumer do not want to be re-educated by Cadillac

Fairview.

Are the commercial interests of the Eaton Centre, for instance, more important than the human rights of employees and their families in that centre?

The only way to protect them is to enforce a common pause day for all.

Franchising is the new way of employment.

You will get a better understanding of retailing when you see the phenomenal growth rate in franchising. Special newspaper inserts regularly display franchise opportunities and franchise magazines are also prevalent. Banks and governments are also geared up to meet the special needs of franchisers.

Why do most chains set up franchise locations?

A franchiser might not have capital resources, but one of the main reasons for setting up franchise locations is that a franchisee running his own business will probably work a lot of crazy hours and thus control his retail costs.

I have seen some very successful franchisee organizations, but there are quite a few where in reality the franchise is in all but name an employee. Therefore, a franchise guarantee for one weekend day off with his family is a Sunday or Saturday closing option only.

During our campaign against Sunday shopping we encountered the anomaly where franchisers said they were in favour of Sunday shopping but the franchisee was not and in the case of some larger million dollar operations the franchisee was even told to keep his mouth shut by the franchiser.

Quite a few of these smaller franchisee stores are husband and wife operations. When the husband is not in the wife is. Sunday is their only day together. Do you want to take that away from them too?

Saturday or Sunday, one day off.

Employees should be guaranteed at least one weekend day off with their families. Those stores open Sunday should have to close Saturday and those open on Saturday would have to close on Sunday.

The Supreme Court of Canada would have no problem with that. The Supreme Court of Canada will have a problem with trying to define if someone's religious base is indeed a valid one. That is why section 5 of Bill 113 will never fly. For instance, a Tuesdayarian, could be one who likes to meditate on Tuesdays. The Supreme Court of Canada will never get into judging which religions are valid in this country and which aren't.

If Barry Agnew suddenly converts to the religious order of Tuesdayarians all Simpsons and Bay stores would be open both Saturdays and Sundays and their employees would have to shift accordingly. Really nice if you have got kids and have the middle of the week off.

Christine, we need guaranteed weekend days off with our families because our retail employees work evenings as well.

This is not a consumer issue. This is an employee issue.

Ron, that is where your hang-up is.

This is a quality of life issue for retail employees.

There is a responsibility we as consumers must have. Most retail employees work two or three nights a week. They need at least one weekend day off with their kids or with their families. Ron, you keep on saying that these hearings are representative of the people as consumers for the people who want Sunday shopping. Is it really an issue for them?

In North York when it came to a vote for or against Sunday shopping, two busloads of so-called pro Sunday shoppers showed up. The only problem being they were paid \$10 an hour to be there. Of over 115 people slated to speak, only 7 people representing developers and stores spoke out. No Sunday shoppers.

But what has the overwhelming majority of retail employees upset?

Basically they have problems with the hours of employment now. Why? Because retail employees now work the hours of convenience for shoppers. They are locked into working evenings and Saturdays and the pressures of not enough family time does affect them. It is a quality of life issue. Unlike shift worker rotation these hours of shopping of convenience are locked. The majority of retail employees have to work on Saturdays. That is when up to 40 to 50 per cent of sales take place. During the week, hours of convenience have shifted shopping patterns into the evening hours. At Idomo, for instance, we now open at 10:30 a.m. as more and more shoppers are shifting to evenings. With the majority of people off on Sundays the shopping patterns will shift and in other places have historically shown to do so.

What will this mean for the average retail employee? Basically that he will be working both Saturday and Sunday with the resultant Wednesday and Tuesdays off in the middle of the week. Tuesdays and Wednesdays when, in all likelihood, spouses and friends are at work and the children are at school.

How are parents collectively going to impart their values with their children if their hours are locked into working when the kids are at home?

Over 90 per cent of retail employees do not want to work on Sundays.

We have seen poll after poll commissioned to analyze people's attitudes to Sunday shopping. We are happy with the fact that recent polls show a majority of Ontarions 57 per cent are against Sunday openings.

But the real issue is: "Do retail employees want to work on Sundays?"

It is Sunday work, not Sunday shopping.

For this reason we decided to poll the opinions directly of the retail employees affected. A sampling of a thousand employees was taken throughout Ontario including Kingston, Barrie, London, St.

Catharines, Thunder Bay and Toronto, Ottawa, we have the results from they are polling independently. The results were surprising even to us. Over 90 per cent of retail employees across Ontario do not want to work on Sundays, but what bothers retail employees even more is that the proposed legislation is also affecting statutory holidays as well. 95 per cent of retail employees across Ontario do not want to work on Canada Day or Christmas Day which is being opened up in certain other areas.

Retail employees' right to a common pause day cannot be protected through the Employment Standards Act. It is also an axe. Can five per cent of the employees really staff the stores? One gets really discouraged when as of today Premier David Peterson has not even had the courtesy to acknowledge our letter or results of the June 10th, 1988 poll, and you wonder why we get bitter?

Still, I have to be respectful, positive!

Is there really an option for retail employees under Bill 114?

When Idomo put out an ad against Sunday shopping, one of the first people to phone (we had 140 calls the first two days, by the way) was a department store employee. Her option for the Sunday opening of December 27th was either working on the Sunday and getting full-time hours for the week, or only part-time hours for the week if she did not work on Sunday. She needed full-time hours but she did not want to work on Sunday.

Is this not subtle pressure? She was working at Simpsons, the same Simpsons that has already had signs printed up "Now open Sundays 11:00 a.m. to 5:00 p.m." They have said they will break your law if implemented once it is passed to test it.

Do you think your line of promotion is there if you as an employee don't give your boss the flexibility of hours he needs? Retailers, if open on Sundays, have to keep the cash registers going and if you are understaffed, employees sick, or someone quits or walks out, you have to have flexible staff to work with. Employees will have no choice. Do retailers really have a choice? Some retail establishments and

fortunately, I don't feel I am part of it because of the uniqueness of my product, will feel forced to open because of competitive pressures. The employee protection is no protection at all. What is reasonable? Mediation in small companies, if it gets to that stage, means no employment as people would feel uncomfortable working together.

Mr. Chairman: I would like to take a break. We will take a brief recess. We will stand recessed until ten after eleven.

---Recess

Mr. Chairman: We will reconvene.
Mr. De Boer, you proceed.

Mr. de Boer: I am sorry. I apologize.

Mr. Chairman: No problem.

Mr. de Boer: I have been travelling extensively trying to do my business and I only had the last two nights about two hours sleep, so I guess it caught up with me. I saw my daughter's name Idette there and it was too much to handle. It was because of my daughter that I initially took out an ad in the newspaper because of what I thought the injustices were about what this issue was about, and I guess the fact too that I still see this same type of injustice happening now which bothers me.

The Supreme Court of Canada saw the value of a pause day. Why can't members of this committee?

This is not some sinister lobby. This is your grocer, your auto dealer, your lumber yard, your hardware store, your jeweller, your clothing store, your friendly furniture dealer. It has been a ten-month course on democracy. For me the hardest thing has been dealing with what committees such as these are all about.

I did not realize that in our Canadian committees the party lines on all sides become rigid. With respect, always with respect, let me say that it is a sad commentary about our society that an individual MPP does not even have the right of self-expression in this format. That bothers me.

As a Liberal on this committee I would feel insulted with the mandates of the Premier overriding my views.

Also with respect, let me say to the NDP and to the Conservatives, that it is important for them also to concretize solutions. The last select committee didn't go the final 100 metres. This committee should define tourism, simply.

In closing let me say, are there no limits to a society that does not give itself any time at all to reflect? Are there no limits to a society that treats every day as the same? If you guys are really interested in my critique and positive suggestions of Bills 113 and 114, do so without a muzzled mandate, come over to my house tonight and together we will piece back what I ripped up last night. Thanks.

Mr. Chairman: Thank you, Mr. De Boer. Two minutes and 40 seconds per caucus. Mrs. Cunningham first.

Mrs. Cunningham: Mr. De Boer, I think you have said it all. I don't think you have missed anything. I share your frustration. I was elected in London on the 31st of March and I come here as a member of this committee hoping that the democratic process will take place. I intend always to speak my mind and I will never be muzzled.

With due respect to the Liberal members on this committee, I think they have tried through their questions to speak their minds. A couple of them from time to time have given what I believe and what you believe is the direction from the Premier's office and I find that distasteful, and I also find it irresponsible, not on their part, but on the part of the Premier, and I will tell you why.

We are spending \$90,000 to travel this province to get input from the public and I can only tell you that that is exactly what I thought it was and then I thought I would act on it. You and I haven't met before, but you issued a bit of a challenge today and your timing couldn't be better because I have presented a motion to the Chairman of the committee and I have in that motion asked that we get the input from the people who have advised us that they were willing

to help us with the definition of tourism and that we take some time to do that.

Some time today I hope my colleagues on this committee will look at that motion and if we don't have to deal with the motion just the direction because we have been working on unanimous consent and I hope they will take my recommendation seriously and that we will further work toward solving this problem.

I thank you sincerely for your input. I share your emotional concerns for your family because I have a family as well and I don't know what else to say.

Mr. de Boer: Thank you.

Mr. Chairman: Thanks, Mrs. Cunningham. Two minutes and 40 seconds. Do we have any further questions for Mr. de Boer? Mr. Farnham, two minutes and 40 seconds.

Mr. Farnham: Mr. de Boer, my mascot reads "I am not deaf." I am just ignoring you and I think basically it symbolizes the position of the Liberal government that you have outlined. I find it also extremely strange that 48 members of the Liberal government in the minority could think one way and 94 members think exactly the opposite following a majority election.

Not once during the life of this parliament has a single Liberal broken ranks with the group think of the Liberal party and I think that is a problem of our times. I concur totally with your presentation at the remainder of the time that I have at my disposal, I offer to the Liberal members to ask questions because I think that is more relevant in this particular case.

Mr. Chairman: Thank you, Mr. Farnham. That being said, three minutes and 20 seconds to Mr. Chiarelli.

Mr. Chiarelli: Thank you, Mr. Chairman. Thank you, Mr. de Boer, for coming here today and sharing your thoughts with us. One of the thoughts that you shared with us relates to the openness or otherwise of this government and I am a member of the Justice Committee. I have travelled

across the province as well as other people on this committee. In fact the committee is sitting for eight weeks and if I can use Ottawa as an example, as Mr. Farnham did yesterday, we had a number of submissions from people such as Canadian Tire, Shoppers' Drug Mart, the Automobile Dealers Association, KAOS and several unions.

In fact, those same groups presented briefs in Kingston and in London and Toronto and several other communities. So I think in fact some of them presented briefs, three, four, five as many as six times in public before the cameras, saying the type of things you have said in many instances.

So, I believe it is open and it is accessible and we have the responsibility in government to deal with the matters that have come before this committee and this is where the buck stops. We have a majority government and we are acting, we feel we are acting responsibly. Some people feel not, and I guess time will tell, but we do have specific problems we have to deal with and I would like to ask you a couple of very specific questions.

Quite apart from how legislation is drafted, and what level of government should decide the issue, I am going to ask you a question not specifically but in general terms. Should Chinatown be open on Sundays or would you close it?

Mr. de Boer: If you want me to get into specifics of the whole thing then I think I will not discuss anything with you with the mandate that has been given by you as far as discussing the local option.

Mr. Chiarelli: We in government have a responsibility.

Mr. de Boer: You have a responsibility now to enforce the present laws of what this province is all about. What bothers me is Ron is talking about pharmacies, but if you look at what the present Act is about, what pharmacies is, pharmacies should be selling mainly pharmaceutical products.

Mr. Chiarelli: Should Chinatown be open or closed?

Mr. de Boer: Let me finish. If they aren't mainly selling pharmaceuticals let's close them down. You have the legislation right now to close them down.

Mr. Chiarelli: Should Chinatown be open or closed on Sunday?

Mr. de Boer: You have a tourist definition. Why don't you work on a tourist definition? I am not saying you extend Chinatown to a larger area or a smaller area. I think you people should be working on a tourist definition.

Mr. Chiarelli: You are not prepared in your personal opinion to say whether Chinatown should be open or closed on Sunday?

Mr. de Boer: No, I am not.

Mr. Chiarelli: Are you prepared to comment on Harbourfront?

Mr. de Boer: I am not.

Mr. Chiarelli: Are you prepared to comment on the Markham Village?

Mr. de Boer: I am not prepared to make a comment on your whole approach to what tourism is about because you are really not dealing with tourism, because what you are really dealing with is throwing everything into wide open Sunday shopping.

Mr. Chiarelli: I represent the people who live in Chinatown and apparently want a certain state of facts to exist.

Mr. de Boer: I would say give them the option of either Sunday or Saturday.

Mr. Chairman: Thank you very much, Mr. de Boer. Unfortunately time runs out. We have a number of other delegations. We thank you for coming before us and presenting your thoughts to us.

The next delegation is that of Mr. Grant Hamilton. Mr. Hamilton, perhaps you would be good enough to come forward and take a seat. You have thirty minutes to make your presentation. We have

a written brief before us. You can use all of that time for presenting your brief, or you can use any portion thereof, and if there is time left over we will divide it equally amongst the members of the three parties represented on this committee.

So, if you would like to proceed.

GRANT HAMILTON

Mr. Hamilton: Thank you very much. Before I get started I would like to say right off the bat to the committee members that I work for a member of the legislature, Dianne Poole, the Member for Eglinton, but that I am speaking to you today as a private citizen. Dianne is aware that I am making a presentation but it wasn't until this morning when I actually gave her a copy of what I was doing that she had any idea what I was going to say.

Essentially I am an individual who has always been very, very interested in the issue of Sunday shopping and if my current job has had any bearing at all on my making a presentation today, it is simply that it has made me more aware of forums of this type that allow voters to say what they feel and I am taking advantage of that.

As a proponent of Sunday shopping I feel it is important to make my voice heard about the outcry that has been raised by the opponents of Sunday shopping. I believe that when an issue arouses passions, those who are against are generally more vocal and those who are in favour often regrettably remain silent. My fear was that those making presentations to this committee would not be representative of public opinion at large.

I should add that I do not have a vested interest. Generally speaking, I do not do a great deal of shopping, because I have neither the time nor the money. I do not own a retail business, and I do not have the intention to open one.

I would also like to say that I have worked on Sundays before, first as a gas bar attendant, and then later as a tour guide and in both instances, working on Sundays ideally suited my schedule and at the moment I only occasionally am called upon to work on Sundays.

My biggest argument is with those advocate a common pause day. I would like to submit to the committee that, however laudable this is as a concept, it simply cannot work in our present-day society. In fact, I would venture to say that it has been many, many years since anything approaching a common pause day has existed in this province.

I, therefore, feel very uncomfortable with laws that arbitrarily dictate which businesses may open and which must close. If it were possible to achieve the goal of a common pause day, I could accept the argument that Sunday closing laws are necessary. Even the law that appears to be unfair is justified if it achieves a greater good for society.

However, I do not believe that our current law achieves the goal it was set out to achieve and, as such, I cannot support it nor can I support those who argue it must be retained.

In deciding who must open and who must close, we seem to have been operating on some vague concept of what is nice and convenient to have open. There has been no regard for the necessity of the service, nor for the "family life" of those who provide the service. And to argue that by changing the law, we are destroying family life is really stretching the imagination.

For instance, would anyone argue that professional baseball is really necessary on a Sunday? It is pleasant to have it available. No one seems to be too put out by the fact that it takes place, but somehow the idea of spending quality time with the family has been abandoned for those people who work in the concession stands or sell tickets. I would like to ask those opposing the government's proposed legislation whether they advocate forcing the Blue Jays to cancel their Sunday home dates.

There is another example: I often like to go out for a walk on a Sunday afternoon and stop at my neighbourhood ice cream parlour for an ice cream cone, and I am sure many people do. I am sure many people who oppose Sunday shopping are guilty of the same type of indulgence. My question to them is why are you not advocating that such establishments be forced to close, so that their employees may spend time

with their families? What difference does it make that there are only one or two of them?

I can take the argument one step further. There are restaurants all over this province that remain open on Sundays and, yet, we all have access to grocery stores throughout the week, and to convenience stores on Sundays. We all know that home-cooked meals are cheaper and often much better, and still we feel no compunction at forcing literally tens of thousands of people to work in restaurants on Sundays.

Under the circumstances, I cannot understand why the opponents of Sunday shopping are not arguing that we must restrict the number of restaurants that open on Sundays. The City of Toronto does much the same thing with gas stations. They force most of them to close on Sundays, and I would add, that they do this at the great frustration of motorists.

Basically, I am tired of being told where I may shop and when. Sunday shopping foes argue that most people are against Sunday shopping. Mr. de Boer just said 57 per cent. If that is so most stores will stay closed because there won't be any customers. Opponents also argue that the government's decision to allow municipalities to regulate Sunday store hours will lead to wide-open Sunday shopping because of the domino effect. All that says to me is that Sunday shopping will prove to be so irresistibly popular that no single municipality will be able to stem the tide, and I say that sort of contradicts their first argument, doesn't it?

It seems to me that what we have been saying in this province is that anybody may open provided that they are a small, unobtrusive operations even if the service they provide is absolutely unessential, but that if their operations are larger and more visible, they have to close to soothe our conscience and in some way maintain the pretense of a common pause day.

I'd also like to talk about the notion that some people have that employees will have to work seven days a week if stores are open on Sundays. Are they not aware that the province already has employment standards to regulate this type of thing? When I worked as a tour guide, I worked every Saturday and

every Sunday, but never on Mondays and Tuesdays. This arrangement suited me just fine, and I am sure that working on Sundays suits many other people just fine too.

It appears to me that the whole issue of Sunday shopping has been distorted into some kind of referendum on the basic goodness of families. Those who disagree with Sunday shopping maintain that it will harm family life, and they argue that proponents of Sunday shopping are uncaring businessmen or shopoholic consumers. Well, I would like to say I am neither a businessman nor a diehard shopper and I believe quite firmly that their passion is sorely misplaced.

I think it is important that we talk first about what really constitutes a family. I live in downtown Toronto and, quite frankly, it is rare that I actually come across one of those "typical" families that everyone is so righteously defending. I am absolutely surrounded by single people. There are childless couples everywhere. There are busy professional couples who don't have a free minute in their schedule from Monday to Saturday. Many people come from out of province or from out of country and have no family whatsoever in Toronto. In fact thousands of people lead happy, fulfilling lives in arrangements that bear no relation to our traditional concept of family life. I believe we must start by admitting that there is far more to families than the image that springs immediately to mind of a mom and a dad and two kids.

I am not saying that traditional families do not exist anymore, but simply that they are not the only yardstick by which to judge family life.

I realize that Toronto is not representative of Ontario. That is basically why I am so pleased that the government has opted to allow each municipality to decide for itself. I would hate to think that my life and freedom are regulated against my will because what I want to do does not play well to the folks in Stratford or Timmins. By the same token, I don't feel that my opinions should be imposed upon those living in communities where Sunday shopping is unnecessary and unwanted.

But, despite all that, I am not convinced that opening stores on Sundays has anything

to do with the quality of family life. Families do shop together. In fact, I am sure that shopping is a much more popular pastime than attending baseball games. What about all the teenagers living in our good, clean family-oriented suburbs? Is it not better that they work part-time on Sundays at the local shopping mall than seek out other, less productive ways to relieve their boredom? This is not a scientific observation I am trying to make here, but it certainly appears rational to me.

Believe me, I would love to live in a perfect society where families all enjoy each other's company, no one has to work on Sundays, all bosses are kind to their employees and considerate. No one has to impose rules and regulations on anyone because we are naturally a tolerant and happy people, but I don't live in a society like that and I never will.

However appealing the idea of a common pause day may be, it is an unattainable illusion. By trying to legislate a common pause day, we have wound up coddling one sector of the work force at the expense of all the others, and we have created two classes of businesses, one which is free to conduct its affairs as it sees fit and another that must abide by laws that put them at a competitive disadvantage.

To me, the answer is simple. Let each municipality decide. I have far more chance of influencing my local councillor when my neighbours share my beliefs and my leisure time pursuits than when I am lumped in with the whole province and have to acquiesce to decisions that have no bearing on life in Toronto.

I would ask the committee members not to allow themselves to be fooled into thinking that the other groups coming before you to speak against Sunday shopping represent my viewpoints or those of thousands of my fellow Ontarians. They are loud, and they are passionate, but I do believe that they are also misguided and they have the unfortunate habit of claiming to speak on behalf of everyone.

Thank you for your attention.

Mr. Chairman: Thank you, Mr. Hamilton.
Six minutes each caucus. I have Mrs. Cunningham.

Mrs. Cunningham: Mr. Hamilton, Mr. Kanter started this morning with one of the witnesses by telling him that in fact in principle the common pause day is very much a part of this legislation. In fact he quoted section 2 of the new Act and said that no person carrying on a retail business shall sell or offer or admit members of the public on a holiday. He is very strongly stating the common pause day is part of this legislation and I am sure the Liberal government wants to think that is part of the principle, so you should know that.

I just have one thing to say. I believe in the common pause day. I live with my daughter in downtown Toronto. She needs it badly. That is the day she needs to visit with her friends. I very early this morning spoke with a gentleman who lives by himself and is very much in favour of a common pause day because that is what he needs for his friends and his family life isn't the traditional family life, but it is an extended family of friends.

I just want to make that comment to you.

I guess that what occurred to me when you came to the committee with this very strong point of view that Mrs. Marland will be asking you some questions about. Mr. Kanter talked about the real people who came before the committee and I think everyone before the committee has been a real person. Do you consider yourself one of these real grass roots people coming before this committee giving your point of view? Is that how you would describe yourself today?

Mr. Hamilton: Absolutely because I have talked about this issue for years actually every since Paul Magder first hit the headlines.

Mrs. Cunningham: Who is in favour of a common day of pause. In spite of all his problems, he really thinks the family should have a common day of pause. His is now Wednesday because his children are grown up but when they were younger he wanted Sunday.

Mr. Hamilton: I would say the only way to get a common pause day in this province is to go back when it was against the law to have streetcars on Sunday and everything was closed and you couldn't do a thing. I really don't think ...

Mrs. Cunningham: That was 150 years ago.

Mr. Hamilton: Unfortunately we can't go back 150 years so trying to legislate a common pause day is laudable but perhaps unattainable.

Ms. Marland: Mr. Chairman, I must say I realize we are here to ask questions and not to make comments on their briefs.

Mr. Ballinger: When did you ever change?

Ms. Marland: I think this is one of the more interesting briefs I have seen and I am trying to be generous. Where you say, Mr. Hamilton, that -- I don't think I will address it where you advocate forcing the Blue Jays to cancel their Sunday home dates. I don't think that really deserves any comment.

Where you talk about "still we feel no compunction in forcing literally tens of thousands of people to work in restaurants on Sunday," the way you describe what goes on as under the existing legislation and then you go on to say that you had a great deal of difficulty because of the frustration of gas stations being closed on Sundays, I suppose that you think we should close the restaurants and open the gas stations from what you say in that paragraph.

Mr. Hamilton: I am just trying to illustrate the arguments people are using to advocate we retain the current legislation are full of holes because the current legislation is itself full of holes.

Ms. Marland: So you think the way to do that is to throw it out and produce something that doesn't address the shortcomings and everyone agrees our Progressive Conservative task force agree the present legislation needed to be stronger in terms of the punitive penalties that were to be enforced to be a deterrent to people violating that legislation.

When you talk about the kind of world that you see evolving and you talk about what is happening, that the real fact is that in downtown

Toronto, you said that the image of families is far different than we are trying to project and those of us who believe in conserving a common day of pause, of that total description you give, would you not see that as the very argument on which should pivot the preservation of what at least we have left?

You said we can't go back 150 years and that is quite true, but I too live in a cosmopolitan mixed riding and in my riding I have made a point of talking to single parents, single young people and old people alike and they all want a day that they can recreate together with nothing to do necessarily with ...

Mr. Hamilton: What I am essentially saying is so that these nuclear families may have access to the things that they want to do on Sunday which is purely convenience for themselves, such as attending a Blue Jays baseball game; they are not too put out by the fact that people have to work at the games. If it is convenient to me, fine, sure, let them work because I have my common pause day with my family.

You have two standards. I don't go along with that. I prefer ...

Mr. Chairman: I regret to say time has fled.

Mrs. Marland: I regret it too because there is some marvelous stuff in here that begs explanation.

Mr. Ballinger: Save it for another day, Margaret.

Mr. Chairman: Do we have any questions of the deputant? Not seeing any ...

Mr. Farnham: I was hoping that my other colleagues would go first.

Mr. Chairman: You have six minutes, Mr. Farnham. Time is running.

Mr. Farnham: A couple of things. I understand to some extent based on the fact that you have come here supporting open Sunday shopping in a Bill which Mr. Kanter constantly refers to as Sunday

closing legislation.

Now, I want to go to the point of asking you this question. Your final line says, and you are making judgment on the significant number of groups that appeared before us, let me tell you we had Church groups of every denomination, we had unorganized and organized labour, we had municipal representatives, we had co-operative representatives, we had mothers, we had children, and you say they are misguided and they have the unfortunate habit of claiming to speak on behalf of everyone.

My experience as someone who has sat on this committee and has travelled around the province is that all of these groups by and large have been very responsible in the manner in which they have put forward their briefs. They have referred to over 90 per cent or 75 per cent of their group as being in favour of and indeed by suggesting that they are actually indicating that members of their group are not in favour of the majority position. How do you respond to that?

Mr. Hamilton: I would go back to my brief and I would say that those who oppose something are going to come to you and oppose it. I have spoken informally with my own acquaintances and friends because I am very interested in this issue. I have in the course of my job also spoken with constituents and the groups coming before you, while they may represent large numbers of people, I don't think a group, for instance, from the Catholic Church can claim to speak on behalf of all Catholics or anybody in the labour union.

I believe there are many, many people out there who say "This is nice. I am glad the government has done this." And that is all they say. Then they watch and read the mess, the controversy that is being printed in the papers every day about groups protesting. I haven't heard any of these groups voice anything approaching what my opinion is, and what the opinion is of many of my friends and acquaintances.

Mr. Farnham: Basically when groups appeared it has been predominantly after communicating with their membership and on many, many occasions, they were able to report 100 per cent of our BIA, 95 per

cent of the municipalities of the province, 91 per cent of the members of our local union. These are not falsehoods. These are statistics, and I think it is rather unworthy of you to suggest that these groups are coming forward and not presenting honest and accurate reflections of their membership.

To put something like this "They have the unfortunate habit of claiming to speak on behalf of everyone" is indeed a falsehood and it cannot stand. These people take accurate statistics. You can come here as an individual and you can say anything you like, and you can perhaps want to undermine the valid statistics taken, but it doesn't stand.

Let me move on to Radowski. We are talking here of the government right hand not knowing what the left hand is doing. Students will have to work on Sundays and the government's own representatives are saying it is going to undermine their education potential as a result.

Mr. Ballinger: By government policy?

Mrs. Cunningham: I hope not.

Mr. Farnham: Let me say as a Libertarian which is basically the philosophy that you seem to espouse, let people do what they want, let me put it to you that one man's freedom is another man's straitjacket. To decide to open on Sunday is to put a straitjacket on workers who have to work on Sunday and certainly to give that decision to the municipalities is not the solution because the municipalities, why should the municipalities not allow freedom for people to shop or freedom for people to open their stores on Sunday?

If indeed you say the province should take the position that the honest thing for the Liberal government to do is to take the responsibility and say "Yes, we are going to have wide-open Sunday shopping and the province of Ontario will be responsible for that", but indeed what you are saying is "Let's wash our hands" and you are being a very loyal employee in the process by saying let's move it to the municipalities and the freedom, the municipalities will have the freedom to open up on Sundays, but the province is off the hook.

Mr. Hamilton: I would make one comment here that I would be very supportive of a compulsory referendum at the municipal level to allow people to actually say what they believe and then you and I can check whether I am speaking on behalf of the majority or whether these groups coming before you are speaking on behalf of a majority. It is the only way to do it.

Mrs. Cunningham: Put it on the next provincial election.

Mr. Farnham: I put it to you that you totally ignore the consequence of the domino effect, group after group have come before us and they have said this is what will happen.

Mr. Hamilton: Is it bad though?

Mr. Farnham: Let me continue. This is what we have said will happen. Everybody is wrong but the Liberal party. Everybody is wrong but the Liberals.

Mr. Chairman: Mr. Farnham, your time has expired. Thank you very much. Ms. Hart, six minutes.

Ms. Hart: Mr. Farnham didn't you allow you any time to respond to what I would characterize as his ad hominem attack. He doesn't seem to like people with a different philosophy from himself. Perhaps you would like to respond in my terms.

Mr. Hamilton: Thank you. I would like to make one comment about statistics and the fact you can get statistics to say whatever you want them to say. Many of those surveys of membership were done at a time when people had no knowledge of what the legislation being introduced actually contained. It is very easy to say "I am against that, yes," without feeling very strongly about it one way or the other.

I know because I work for a member and we did survey our riding about what issues were concerning people. I do know that only five per cent of the people in Dianne Poole's riding indicated to us Sunday shopping was a concern and yet the People for Sunday Association wrote us a letter claiming to speak on behalf of the constituents of Eglinton.

So, I would say that I take exception with that and it has made me angry enough to come and talk to you today.

Ms. Hart: Continuing a little bit with the domino effect, Mr. Farnham wasn't quite accurate when he said you didn't deal with it within your brief. I would like to ask you in your opinion if what all the groups -- not all of them -- but many of the groups who have come before us are right about what will happen, once this legislation is passed will there indeed be any Sunday shopping? Nobody will shop.

Mr. Hamilton: That is what you tend to think, but I have the impression that the stores will be packed on Sundays and that people will never want to give it up if Sunday shopping comes about. Not to say it will because it is quite possible if there was a provincially -- if the province said in the legislation, amended it to say referendums were compulsory at the municipal level it is quite possible that the majority of municipalities in this province would vote against it and Sunday shopping would be quite restricted.

I find it ludicrous to find the Eaton Centre closed on Sunday. I have been in American cities where I have been grateful to carry on as a tourist and I feel sorry for some of these people walking around downtown Toronto wanting to spend their money when they visit our city.

Ms. Hart: I am glad you raised the question of tourism because we have heard from many people around Ontario, Mayors of small communities in the north and the near north if I could call it that who say that even though they don't want the municipal option and even though they don't want Sunday shopping, in fact their municipalities are virtually totally open as tourist areas.

On the other hand we have Sault Ste. Marie that is open. You might or might not call it a tourist area, Chinatown in Toronto, Queen's Quay, the flea market in Oshawa, a fruit stand in Brampton. Can you see any difficulty in finding a definition of tourism that applies to every situation across the province?

Mr. Hamilton: Yes, I can, because in

any given business in any given location a certain percentage of the business that is done is done with tourists. Some areas that might be 50 per cent, some areas 90 per cent, but even if it is a 10 per cent level of tourism in the store does that make it less of a tourist area? If there are tourists there there must be a tourist area and there are tourists everywhere.

Ms. Hart: You might be interested to know the travel association that appeared before us gave us a definition of tourism. I can't recall it in specific terms but it essentially was anybody who moved and spent money. We were tourists in their towns when we were there. One other question having to do with this.

Did you work when you were a student?

Mr. Hamilton: Yes, all the time.

Ms. Hart: Did you feel it involved sort of evening or weekend working hours?

Mr. Hamilton: When I was going to university I worked weekends. One year at the University of Ottawa I worked weekends in a gas bar and then I went to Laval University and there I worked one day during the week as an English language monitor, and on weekends in the evenings as a tour guide and full-time of course during the summer as a tour guide.

Ms. Hart: Do you feel that affected your educational opportunities?

Mr. Hamilton: Personally, no. It allowed me to finance most of it.

Ms. Hart: Many of us were in the same position. I want to thank you for your brief. I am certain if you are looking for a job you have found a few possibilities while you were here today.

Mr. Chairman: Thank you very much, Mr. Hamilton, for coming forward and sharing your views with the committee.

The next delegation is Rev. Dr. Graham Scott. Dr. Scott.

REV. DR. GRAHAM A. D. SCOTT

Mr. Chairman: Rev. Scott, welcome to the committee. We have a copy of your brief before us and, as I explained to the other deputants as they came forward, a short time, 30 minutes of it. You can use the entirety of that time for your brief and comments you have or in the alternative if there is some time left we will allot it to the three parties represented here. If you would like to proceed.

Rev. Scott: Thank you very much, Mr. Chairman. In the opening letter I outlined the background that I come to you. I am coming on my own behalf. I am not trying to speak for anyone. I have said that prior to hearing the previous deputant.

I might mention in passing that when I was living in the Niagara Region I found out that 1.8 per cent of retail sales was from tourists in the Niagara Region which must be one of the tourist capitals of the world.

My brief begins on page 1 and refers to the brief of the United Church of Canada as represented by the Division of Mission in Canada and since I am a Minister of that denomination I thought it appropriate to begin my remarks relating to that and I am happy that in this matter at least I can speak very much in favour of what the Church's official position is.

I support the United Church brief in every respect and I do believe the Ontario law should be consistent with international law as ratified by the federal government.

I would reiterate what the United Church has said about freedom of religion: namely, that this freedom involves the practice of religion and, specifically, the assembling together for worship. When an employee is forced to work at a time that his or her congregation's worship occurs, that employee's freedom of religion is being seriously restricted. As a Minister I am told again and again that members of my congregation are given no choice about Sunday work. The prejudicial restriction of freedom of religion is a fact of life in Ontario, at least for Protestants whose Churches generally only have one service a week, and Protestant congregations are used to meeting together and having that feeling of togetherness and that is being denied by many employers.

In my opinion Bills 113 and 114 in no way protect the employee who wishes to worship with his or her congregation every Sunday. (Please correct that misprint.)

The surest protection, in my opinion, was the restriction of Sunday shopping under the present Act, imperfect as it is. I think that the protection would be stronger if the loopholes (especially those tourist areas) were eliminated, but instead it seems to me that Bill 113 provides as many loopholes as there are municipalities in Ontario, and there are hundreds of them.

Bill 114's indication of what is unreasonable is, in my opinion, a loophole big enough for 100 per cent rulings against employees who object to working on Sunday, and worst of all, Bill 114 at least, to my reading, permits no appeal beyond the bureaucracy-appointed referee. With due respect to the bureaucracy, I find that unacceptable.

I also suspect that Bill 113 is vulnerable to appeal to the Supreme Court of Canada in that it requires, in section 5, that owners identify their religion, a class of people is being required to identify their religion in certain circumstances. Is this requirement compatible with freedom of religion, which includes the freedom of no religion and, presumably, freedom from being harassed as to what one's religion is? I am not a lawyer, but my sense of the Ontario Human Rights Code would indicate that this section is also contrary to the Code.

Andrew Campbell of the management consulting firm of Campbell & Associates wrote a fascinating article in the Globe and Mail in January and I would like to quote a few sentences from that article:

"Ethical behaviour in business (he said) is more important today than ever before...

The notorious example of Hooker Chemical Co., which poured toxic pollutants into the Love Canal in upstate New York, created a furor. The company's actions to improve its bottom line at any cost made Attila the Hun look good by comparison.

The rationalization of the management of such companies, which may have been acceptable at one time, was that jobs were being created and local communities were being developed.

Progress was the excuse. It was all that mattered. The shareholders' gain became the general public's pain and society's loss. Unfortunately (he says) some companies still conduct their business in the same way, apparently oblivious to the reality that the environment is fragile and that they have a social responsibility."

Members of this Committee, Mr. Chairman, if we can recognize with Andrew Campbell and with the Hon. Jim Bradley, that the environment is fragile, surely we can see that the human environment is even more fragile. Time off is part of the human environment, just as time itself is part of the total environment. I suggest to you that the movement to open up Sunday is a movement that is creating time pollution, and it is getting worse.

I believe that the present Act is acceptable to the Charter, a small Jewish business could open on Sunday if it closed on its Sabbath. In this case the principle of one pause day in seven was observed. I suggest to you that Bills 113 and 114 will reinforce the present employer pressures on the employee to work on his or her Sabbath, so that freedom to practise religion will become a thing of the past in Canada, at least in Ontario, I should say. We can see this happening today, even without the help of these bills which, incidentally, struck Rosemary Speirs for one as window-dressing.

I wish to raise the question of ethics in government. I suggest the time has come to recognize that government cannot invent ethics apart from religion. Here is where I become somewhat controversial.

In the past legislation often reflected the view of one particular religious institution. That model is not valid in a religiously pluralistic society. However, there are other models for informing legislation with the wisdom of the religions which people practise. For starters one practical model would be to use the most common religion as the basic source for values and to ensure that other religious

values are protected.

In the case of Canada, the Christian religion is obviously the religion of the vast majority. Christianity is perhaps unique in that it holds as sacred both the Scriptures of Judaism and of its own Apostles.

It is interesting to me that the three world religions which have shaped western civilization each proclaim the value of one common pause day in seven. Jews observe the Sabbath from Friday at sunset to Saturday at sunset; Christians on Sunday, the Lord's Day; Moslems on Friday. To enact legislation which would lead gradually to the abandonment of one common pause day in seven would be to go against the wisdom and the accumulated experience of the three world religions which have shaped western civilization.

In addition to religion as a fundamental source for ethics, the modern situation has given shape to new movements which can be described as irreligious. But their irreligion is negative only in relation to previous religions; they are themselves essentially religious in motivation and often in form. They are not without precedent in history either.

One such shape is Communism, whose scriptures are the writings of Marx, whose priesthood is the communist party, whose hope is the day when the state will wither away, and whose faith is that communism is inevitable. Those who say that Sunday shopping is inevitable might reflect on the very powerful and widespread faith of communists throughout the world that it is communism which is inevitable. As an aside I might note that the Soviet Union recognizes Sunday as the worker's day off; can we do less? In any case, I think something is inevitable only if we let it happen.

Another new shape of religion is naturalistic humanism. Ninian Smart devotes an entire chapter to humanism in his book. The Religious Experience of Mankind (Chapter 10). That humanism is religious in the broad sense of the word was ably argued by John Dewey in his book, A Common Faith (1934) and affirmed by the Humanist Manifesto of 1933 and that of 1973 Humanist Manifestos I and II, ed. Paul Kurtz, Buffalo: Prometheus Press. The second Humanist

Manifesto made a fascinating statement, that I can subscribe to: "Purely economic and political viewpoints, whether capitalist or communist, often function as religious and ideological dogma."

This statement by humanists brings me to what I perceive to be yet another shape of religion today. Its creed is that money is the measure of all things (contrast with Protagoras, as quoted by Plato in Theaetetus 160D). Its priesthood seems to include a number of mall owners and multinational executives. It aims to establish itself in law and to manipulate as many people as possible into its service. The cutting edge of this third modern religion, in my opinion, is the drive for Sunday shopping. Since Sunday shopping contradicts the Fourth of the Ten Commandments, both Judaism and Christianity will be effectively written out of the social script.

Now I don't believe that money itself is evil, for it is a medium of exchange whose importance to civilization ranks with fire, the plough, the wheel and the alphabet. But like fire, money is an excellent servant and a terrible master. When money is made the measure of all things, it has been turned into an idol, and the obvious sacrifices on money's altar are freedom of worship and the common pause day for families to be together. For this and other reasons Jesus said "You cannot serve both God and money". Under God's sovereignty money is a good and useful servant for humankind. But as a god, money is a dehumanizing idol, whose love is the root of all evil, according to the New Testament, and for whom communism is an inevitable reaction on the part of the oppressed.

I suggest that the Ontario government, in its praiseworthy desire to encourage job growth, has fallen for a short-term solution that is tied to very long-term problems. To use Biblical language, it seems prepared to sell its citizens' birthright of religious freedom for a mess of Sunday shopping pottage. I don't hear the majority of Ontarians clamoring for this ultimately counter-productive solution.

In his play, *Murder in the Cathedral*, which I saw at Stratford this summer, not on a Sunday, T. S. Eliot summed up our basic problem. Thomas responds to the third tempter in these words:

"Temporal power, to build a good world,

To keep order, as the world knows order.
Those who put their faith in worldly
order,
Not controlled by the order of God,
In confident ignorance, but arrest
disorder,
Make it fast, breed fatal disease,
Degrade what they exalt..."

Mr. Chairperson, I challenge you to do
your work in amending this attempt at worldly order by
letting it be controlled by the order of God, for if
you don't, you will in the end degrade what you would
like to exalt toward progress.

I thank this standing committee for its
attention.

Mr. Chairman: Thank you, Rev. Doctor.
We have six minutes each caucus. They don't appear to
have any questions? Oh, Mr. Hampton.

Mr. Hampton: We have heard from Rev.
Wiesma and a couple of other groups who wanted us to
look more carefully at Bill 113 as it affects religious
practice and, secondly, as it affects -- as it requires
enterprises, businesses to name their religion under
section 5, to identify their religion. I wonder if you
could expound, first of all, with respect to an
employee's religious practice, expound upon that for a
minute as to how you see that working out or not
working out?

Rev. Scott: Part of the religious
practice of a Christian is that he worship together
with his congregation on the Lord's Day, Sunday, and
that he honour that day, that he desist from work and
if he is forced to work by an employer he is
contravening the practice of his religion in two
respects: "Prevented from attending his congregation or
she is prevented from desisting from work." Does that
answer the question?

Mr. Hampton: You referred to Bill 114
momentarily. What do you see in Bill 114, first of
all, in terms of ...

Mr. Chairman: Can you move forward?

Mr. Hampton: What do you see in terms

of Bill 114 in terms of any protection it might provide in this respect?

Rev. Scott: It seems to me and I must admit I am not an authority on labour legislation but it seems it is chiefly concerned with qualifications which I interpret to be in the employer's favour and it would seem to me that retail employees especially are in a very, very vulnerable position and are still vulnerable despite these amendments proposed by Bill 114.

Mr. Hampton: I want to ask you just briefly about section 5 of Bill 113, which provides that owners of a business, owners of an establishment who want to remain open on Sunday identify their religion. Again would you elaborate for us your views on that?

Rev. Scott: I understand if I am running a business and I am looking for employees, it is quite wrong under the Human Rights Code for me to ask them what their religion is, and therefore it seems to me quite wrong and inappropriate to ask an owner of an establishment what his religion is or her religion is.

You know, it just strikes me as so odd and strange and I mean we have been taught all these years by the Human Rights legislation not to do this and all of a sudden it appears in section 5 in Bill 113. I frankly don't understand how this could be.

Mr. Hampton: Thank you.

Mr. Chairman: Mr. Farnham. You have about two and a half minutes.

Mr. Farnham: Part of the trade-off in Massachusetts where this kind of legislation has been implemented has been to compromise with different church groups and to say let's have worship in the morning and the stores will only be allowed to open, say, from 12:00 to 6:00 o'clock.

Now many Church adherents have said this is an acceptable compromise, the basis being that either there is shopping in the morning or in the afternoon. Would you like to comment?

Rev. Scott: I certainly, personally, agree with those who say that the whole day needs to be separate and different. I think that in the political process people may say that it is better to have half a loaf than none at all, and I can understand from that point of view why they would accept, say, half a day that would be a pause day, but that really only permits attendance at worship and, as I intimated earlier, it does not indicate observing a whole day, one in seven, and furthermore, I don't see that that would help the problem of families staying together.

I might say in that regard I am in a situation where my wife and I both work and finding common time is really difficult and Sunday is the only day we have together.

Mr. Farnham: You have many Biblical references and I have quoted in the past the visit of the Carpenter of Nazareth to the Temple and I hope you won't take offence, but I have made the analogy that if Jesus of Nazareth had been a Liberal he would have said to the moneychangers, "You can change money in the afternoon. We will worship in the morning." But that didn't happen. Thank you.

Mr. Chairman: Thank you, Mr. Farnham. Do I have any further questioners? Mrs. Cunningham, six minutes.

Mrs. Cunningham: Thank you, Rev. Scott. You are very well qualified and have been very much involved in this issue for a very long period of time. I thank you for coming before the committee as an individual even though you have noted you support the presbytery's brief and other input to this committee by other channels.

I think it is quite wonderful that you have taken the time to be here today. We appreciate, I think, some different approaches you have given us. There is a little bit of history here and a little bit of help -- a lot of thought, and I thank you for it.

One sentence jumped off the page to me in importance, I guess in my life and others, and I think if you really believe in something you really have to work for it and I believe in this common day of pause. I suppose more as a parent than anything else, and I would like you to speak a little further to the

sentence on page 4, where you say at the bottom of paragraph 4: "I think something is inevitable only if we let it happen."

Rev. Scott: Yes. I think that the value of the educational program of the Coalition Against Open Sunday Shopping has been basically to turn around the public opinion in Ontario. I can't quote the statistics but I do understand there was a flip-flop from the majority being pretty much in favour of open Sundays to a majority of, I think it was 57 per cent, not being in favour of it anymore.

I think that if people just sit back and let something happen then it will inevitably happen if somebody is pushing on the other side, but I think that human beings have freedom and I think that we have a duty to stand up for what we believe and sometimes we will win and sometimes we will lose.

I regret that it appears to me that the province of Christians have been losing on nearly every account I can think of in the last 20 years, the most recent being the exclusion of the Lord's Prayer, I understand, from our public school system which was founded by a Methodist Minister Egerton Ryerson who said that if we couldn't have Christianity in the schools then he would urge the Churches to found their own school systems.

Protestant Christians I think are really being squeezed and I think that we above all ought to be shouting that some of the things that matter very much to us should be preserved.

Mrs. Cunningham: Thank you for that. I am thinking that as you listened to the previous presenter, you may have been somewhat disturbed. I was. I suppose again as a mother of a good -- three children that have the values and are very much a part of today's society and still try to be home on Sunday as far as possible, maybe I am lucky. They have to travel a long distance, a couple of them, but they do it as much as possible and I am happy that we are able to be home.

I was somewhat disturbed by the presenter prior to you and I am not sure whether I was overreacting. I wonder what your opinion would be?

Rev. Scott: I am sure it was a perfectly valid opinion from that individual's point of view. I mean I have heard that sort of thing before. He certainly was not speaking for me or my family. One of the things he said that I thought was interesting was if so many people are against Sunday shopping, well then obviously if everything were open they wouldn't go and shop.

That by-passes one of the facts of life and even when I was an atheist, I must confess I was an atheist at one time, even then in those years I believed that there was such a thing as sin and as a Christian I believe there really is something deep inside people called sin and that this is why we need governments, why we need laws and I think that that would be probably one of the motivations for what he would anticipate, and I think that it is the duty of the government at every level to watch out for this inclination in us to be proud and to be self-centered.

Mrs. Cunningham: You talked a little bit about the turnaround in opinion, and I will say briefly, my experience. I was in a by-election in London North and one of the big issues was Sunday shopping and I was the Conservative member on the committee and I was elected and the Liberal wasn't. I think this position had a great impact. I saw the turnaround at the door because I was knocking on doors in February and March, and you know what I think the greatest impetus was for that turnaround? People stopped thinking about themselves. Even seniors I say with the greatest of respect from the beginning of February to the end of March started to think more of the workers, of the people who had to do the work and I think that is what the greatest turnaround has been in the province.

I don't know whether you want to respond to that having a congregation in Burlington?

Rev. Scott: I would just say "Amen."

Mr. Chairman: With that "amen" your time has expired. Mr. Sola, six minutes.

Mr. Sola: Thank you for an excellent brief, Reverend. I have to say you would think after eight weeks on this committee that you wouldn't hear something new, but you did bring a fresh perspective to

this committee, and I appreciate it and I thank you for it. I liked the question of ethics in business and in government.

I really like the way you phrase it, the way the rationalization of the Hooker Chemical Company and everything, but I would also like to ask you one thing. You haven't really -- you mentioned Bill 113 and you mentioned open Sunday shopping, but you haven't really connected it. Do you really think that Bill 113 will lead to open Sunday shopping?

Rev. Scott: Well, I think I am assuming from the material in the United Church brief and a number of other briefs that I am aware of, one would support, I think that there is a connection. It is possible I am quite mistaken in assuming that if the controls are lifted that people will rush in and do this, but I think back to the Old Testament among God's people, Sunday shopping, Sabbath shopping was a real issue and it took a man with the courage of Ezra to put a stop to it and he was acting as the government of the day and he made the laws, or I should say, he enforced the law that there was to be no business on Sunday.

Of course people will, I think, from history, shop if there is a stall open, people will shop.

Mr. Sola: Now, does that mean you are accepting the domino theory?

Rev. Scott: I think the domino theory has a great deal to be said for it, yes.

Mr. Sola: Okay. On page 4 I have a question that Ms. Cunningham asked you, where you state: "I think something is inevitable only if we let it happen."

You bring to bear there that there has to be some will behind the inevitability. So, in other words, inevitability of the domino effect is propelled by some willpower behind it and in a democracy who would provide that propeller?

Rev. Scott: I think the people in the municipalities at that stage would be faced with the problem. I think people will respond according to their best insights and of course there will be

disagreement.

I think that the Churches will take the lead in doing their best in protecting the worker in their municipality. I think the principle of competition and the principle of sin will work together to bring about the domino effect perhaps within ten years.

Mr. Sola: Again doesn't that also contradict the statement that something is inevitable only if we let it happen? I mean we have heard statements to the effect that 57 per cent of the population of Ontario across the Board is against Sunday shopping. So those 57 per cent should have some willpower to prevent this inevitability; do you not think?

Rev. Scott: That is my hope, but I am very realistic. As I said, I think that, you know, we are all more or less infected by sin, perhaps myself more than others so I notice it. I think we don't always act according to our best insights but I think that if indeed 57 per cent of the population mean it when they say no Sunday shopping my guess is that that would bring about a patchwork effect in Ontario probably where Toronto and places adjacent will be very much open and there will be a patchwork effect around the province.

In a way I am grateful to the Liberal party for having this possibility for local fights, but I do have to say that commerce is not a local thing. Commerce is not even a provincial thing. It runs right across all borders and so I think there is an inevitability to that kind of economic push and whether the will of the 57 per cent is enough to counteract the tremendous economic pressure, I don't know.

Mr. Sola: I also like your statement: "...like fire, money is an excellent servant and a terrible master. Under God's sovereignty money is a good and useful servant... But as a god money is a dehumanizing idol whose love is the root of all evil."

Now, that concept, does that not depend upon the individual? You cannot legislate that. I mean even among the deepest religious people of all faiths, whether Christian or non-Christian, where the dogma or ideology or religious text points that out continuously within one family you will have one person

who is completely religious and another one who is completely irreligious and whose basic sentiment is to grab as much as he can for himself and have no regard for society whatsoever.

So, how can you legislate this pediment that money shall not be your god?

Rev. Scott: I would not propose that we legislate either religion or morality. Certainly the Christian faith, being faith, cannot be legislated. Faith is something that is intangible, it is caught rather than taught even. So, I wouldn't even attempt to do that, but I would attempt in legislation to protect vulnerable groups and I think we know enough about the allure of making lots of money and having the benefits of all that money to know that a businessman is tempted to take an awful lot of shortcuts and the workers are very often shortchanged in the process.

So, I think it is very important to the government to protect the worker, especially the vulnerable retail worker. I think that this is very important.

Mr. Chairman: Thank you, Mr. Sola. Thank you, Rev. Doctor. We appreciate you coming forward and putting your views before us. Members, you are having placed before you a motion that I received earlier from Mrs. Cunningham. I would hope we would have unanimous consent to deal with this matter at this point.

Mr. Kanter: We have not yet seen the motion. It is still being distributed. It might be useful to consider it after we have had a chance to consider the matter of the motion.

Mr. Chairman: I think Mrs. Cunningham understood that it would be placed before you now...

Mr. Kanter: If the idea is to set a time ...

Mr. Chairman: Perhaps we could do the same week as we did yesterday. We will deal with it -- first of all I should say the Clerk is attempting to have the Carpenters which is the four o'clock appointment moved up to 3:30.

The Secretary: Could I just explain?
In fact Frank Bean is unable to come at 3:30.

Mr. Chairman: He is in New York today.

The Secretary: When I found out I called Carole Carpenter and asked if she could come at 3:30 rather than four o'clock. It is difficult for her because she is teaching a class at York University. She is going to try but I did tell her if she didn't make it by 3:30 we would wait.

Mr. Chairman: All the Committee hearings are running about 20 minutes behind so we will probably be into the neighbourhood of 3:30, 3:40. Perhaps we could delay it until the last, in between those two delegations if it is possible.

Mrs. Cunningham: I guess my greatest fear in at least not reading the motion but speaking to it a little bit is there must be some misunderstanding as to what I really want to happen. People are talking over the lunch hour and I really don't want that to happen.

Mr. Ballinger: We may be dumb but we are not stupid.

Mr. Chairman: I think it is pretty clear, Mrs. Cunningham. I have read it.

Mrs. Cunningham: Could I read the motion into the record?

Mr. Farnham: Could Mrs. Cunningham explain it?

Mr. Chairman: Would you like to do that and we will leave it until after?

Mrs. Cunningham: I would hope the committee members if they do have questions over the lunch hour with regard to intent or the backup list or anything, things are not always flawless and I would admit to some of the back material. I hope it is as perfect as possible, but we have done our best.

Mr. Chairman: According to the rules the Chairman shall read the motion. I will read it.

"Mrs. Cunningham moves that this committee instruct the Clerk to send a letter to each of the 203 individuals and groups who have indicated a willingness to provide input into the development of criteria and method of implementation of tourist exemptions. This letter should indicate to the concerned groups that we would like to receive their input on the development of the criteria and method of implementation of tourism exemptions by Friday, October 28, 1988.

Further, that this committee not begin clause by clause consideration of section 4 of Bill 113 until such time as the committee has reviewed the input from these groups."

Now, I understand there is unanimous consent that we would deal with this matter after the luncheon recess, perhaps after the next to final delegation or if that is not possible after the final delegation. Is there unanimous consent to that effect?

Mrs. Cunningham: Thank you.

Ms. Marland: Just before we adjourn may I just for the sake of the committee clarify the outcome of the invitation to Chairman Frank Bean who I did call yesterday and extended the invitation of the committee? Unfortunately I reached him in New York and he was going to be in New York until six today. He said that he would like the committee to know that he appreciated the invitation. However, with less than 24-hours notice he wasn't able to be here and he is planning to present a written brief on behalf of the Region of Peel which he hopes this committee will give due consideration to.

Mr. Chairman: Of course, we look at all deputations whether they are in writing or whether they are presented orally. We stand adjourned until two o'clock.

---Luncheon Adjournment at 12:28 p.m.

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE
RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT

Wednesday, September 28, 1988
Afternoon sitting

AFTERNOON SITTING

The committee resumed at 2:05 p.m.

Mr. Chairman: I recognize a quorum. The first delegation this afternoon is Dennis Oliver, Swansea Clergy Association. Would you like to come forward, Mr. Oliver? Perhaps you would be good enough to take a seat and when we get started you can identify yourself for Hansard.

We have your written brief in hand. You have 30 minutes. That is your time. We are here to listen. If you choose to use all of that time that is your prerogative. If there is time left over I will split it up equally between the three parties that are represented on this Committee. Would you like to proceed?

SWANSEA CLERGY ASSOCIATION

Rev. Oliver: My name is Rev. Dr. Dennis Oliver and I am representing the Swansea Clergy Association. It is a privilege to be able to make this presentation of concern and conviction to our provincial legislators. Those of you who understand the dynamics of our churches (voluntary organizations, which represent a great diversity of backgrounds and perceptions) know how difficult it is to arrive at a common opinion concerning even the smallest matters. But I have come before you to express a consensus among the great majority in our Swansea area congregations. My fellow Swansea clergy have seen and approved this draft.

May I briefly describe our constituency? I estimate that it represents 15 to 30 per cent of the more than 6000 households in an area which is located south of Bloor Street, north of Lake Ontario, east of High Park and west of the Humber River. It is west of High Park and east of the Humber River, formerly known as Swansea. While ethnically diverse our community consists of those primarily from North American, British and European descent.

The congregations are:
Farmer Memorial Baptist Church
Morningside-High Park Presbyterian
Church,

Saint Olave's Anglican Church,
Saint Pius Roman Catholic Church,
Windermere United Church.

Four months ago, when Sunday shopping and common pause day were leading items in the media, our Swansea clergy asked me to make representation to our provincial representatives regarding these matters on the basis that we all agreed that the vast majority within our constituencies, as well as the higher courts of our denominations, did not support the course that our government was proposing.

Two major concerns lead us to feel that the present situation (with all its difficulties, which I acknowledge) is far preferable than the suggested legislation. I come, then, urging that our government not allow any expansion of Sunday shopping, and that it not pass the responsibility of deciding on this matter to the local municipalities. In this I am confident that I represent the opinion of the vast majority within our churches and the majority in our wider community.

What is the basis of our concern? We do not fear that our right to worship is being threatened. This right, for those of all faiths, is one of our most precious freedoms, and we would defend it for ourselves and for those whose day of rest differs from Sunday with great energy. Thank God, that is not the issue before us.

But we are deeply distressed about the social implications of the proposed legislation. We believe that it will weaken the wider social fabric by making it more difficult for families and friends to be together on what is presently the most common day of rest.

We are concerned for the employees who will find it hard to resist the pressures of their bosses and colleagues to take their fair share of Sunday duty. Single working parents (and thus their children) are particularly vulnerable. As well, those who manage small shops will find the new context of Sunday shopping an additional pressure in their often over-stressed lives. In our community they adamantly oppose expanded Sunday shopping. No legislation can protect workers and shop owners from the powerful forces that will disrupt the healthy weekly rhythm of a

common day of rest to enjoy with their families and friends. A retreat from the weekly rush without the pressures of work and without the business of commercial transactions - shared in common by as many as possible - is good for our individual and community health. This is a wise word from the Word of God which is relevant to us all, whatever our religious heritage or conviction.

All five Swansea clergy endorse the above perspectives and believe that they represent a community consensus. Two (the Presbyterian and United congregations) have circulated petitions to this effect among our people and sent them on to various members of the provincial legislature. The Anglican church has promoted a letter writing campaign to try and get this word into the consciousness of our legislators. We hope you respond to our concerns and recommend the withdrawal of Bills 113 and 114.

We endorse the concept of adopting labour legislation which will protect the right of workers to a weekend pause day, rather than the approach in Bill 114, which seeks to protect them from unreasonable Sunday work assignments.

We strongly disapprove of the strategy of our provincial government to pass the deciding on municipal Sunday shopping to another level of government. We perceive it as an irresponsible buck passing. Since the benefit of a common pause day depends in large part on uniform practice throughout the wider community, the province should determine this common practice.

If I may speak personally (but, I am sure, representing a widespread opinion), I would wish to assure you that though the next election is some years away, I shall not forget how my elected representative and his party handle this issue. I look for the of statesmanship which will address this admittedly difficult and complex matter in a way which will protect the weaker elements of our society and promote the general good. No single issue will determine my next vote, but this one will loom large in the process. As a community leader I will strive to bring it to the general consciousness when we are considering our votes in the next provincial election.

Let me close with the assurance to you

that your church constituency, which is still a large and vital force in Ontario, prays regularly for you. We wish you wisdom and course, divine guidance and God's strength that you might be promoters of social health in the communities you serve. We hope that you, your families and your friends will be able to find a common day together each week for your own rest and refreshment. All Ontarians deserve it.

Mr. Chairman: Thank you very much for your presentation, Mr. Oliver. Certainly we can use your prayers at any time. There are about 21 minutes left and seven minutes to each caucus. I don't see any questions that appear to be directed your way. Mrs. Cunningham, seven minutes.

Mrs. Cunningham: Thank you very much for coming and appearing before this committee. It is obviously a very large issue in all communities across Ontario. We have been travelling and sitting in Toronto for some seven to eight weeks getting input. At this point in time I am feeling particularly frustrated because the input that we are getting is consistent with your own, but I am not certain that my Liberal colleagues are able to listen to the input without some direction from the Premier on this issue, and that concerns me greatly. We may find out a little bit more about that later on this afternoon.

I don't know, but I was going to ask you in talking to people within your own congregation, within your own community, this common pause day, it has been stated there is not really a common day of pause in the province of Ontario, and I just wondered if you would react to that statement.

Rev. Oliver: I haven't heard that statement, so I don't know the background or the reasoning behind it. Certainly there are those who work on Sunday and certainly we are an over-busy society and find it hard for any pause, but the majority still don't work on Sunday and that seems to be the best bet.

From a social health point of view, whether it is Sunday or Friday, is not the issue. To have one day is the issue I think from the community health point of view, and Sunday seems to be the logical one to go for.

Mrs. Cunningham: I think your answer is very specific and clear and for me, at least, I think the majority of people are able to be home with their families and friends on Sunday, and I think what we ought to be doing is making it more prevalent for even more people rather than looking at this expansive legislation that will allow municipalities to open up on Sunday.

You mentioned something about your concern with regard to the responsibility of the province and I wonder if you would elaborate on that just a little bit. Now, you said it was a provincial responsibility and I would like you to talk a little bit more about that.

Rev. Oliver: Well, our Swansea community is bounded by the Humber River on the west and Etobicoke is right across the river. Now, for family members in terms of jobs and other things to be working, let's say, or shopping in Etobicoke for friends, some of whom are shop owners and the like, shop workers to be tied up on a Sunday in Etobicoke, even if the city of Toronto would affect us, did not have Sunday shopping, that would disrupt the social patterns.

Mrs. Cunningham: Your concern is this domino effect then when it comes to municipalities. Would you like to expand on that a little bit?

Rev. Oliver: I think others might have a better sense of the practical realities, how quickly the dominos would fall and how much they would, but certainly the great fear is that it would be extra pressure even for those communities such as the Swansea one where the businessmen's association or business people are so strongly against this. There would be a great fear that they would have to open up.

The great competition in my perception, not scientific, are the shopping centres and they might feel because we have got a wonderful shopping area that they have to continue this option for Sunday. That would be incredibly disruptive on small business people.

Mrs. Cunningham: You will probably get questions from my Liberal colleagues on that particular issue because they don't happen to believe the domino

effect will take place but I am glad you did come here today. Yesterday we heard, I thought, a very meaningful presentation from Mrs. Jeanine Lock who told us what was happening in Europe and she was in touch with the Netherlands Consulate, Danish Consulate, the German Consulate, the Consulate of France, the British Consulate, Consulate of Finland, Consulate of Belgium, Consulate of Switzerland, Swedish Consulate and the Consulate of Austria, all of whom have no Sunday shopping and in fact many of whom close their stores on Saturday.

I am afraid you may want to respond to this. If I had a vision for this province it wouldn't be one that identified ourselves with the American way of life on Sundays which has been put forth I think by the Liberal government, but would more identify us with what is happening in Europe and I wonder if you would like to respond to that.

Rev. Oliver: No, just to say that old world civilization needs to be preserved at some points, maybe at that one.

Mrs. Cunningham: I thank you for it very much.

Mr. Chairman: Thank you, Mrs. Cunningham. Are there any questions from any other members of the committee? Mr. Farnham.

Mr. Farnham: Yes. Thank you, Reverend. I appreciate the very moderate tone of your brief and yet I detect in it a very firm and strong stance. It is in fact despite your very moderate tone, it strikes me as being a very tough brief.

I go to page 3 where you say "Let me close with the assurance to you that your church constituency..." I think that is important. We have heard from every conceivable segment of society in Ontario and it is important to us because sometimes the churches have been reluctant to be involved on issues and I think it is when they are particularly perturbed by a direction that they see as basically flawed that they feel compelled to act.

I think that this is something that we have had, the Anglican Archbishop, the Catholic Archdiocese, every conceivable denomination and I would

agree with you that there are literally hundreds of thousands, perhaps millions of people out there who share that belief in terms of the Sabbath and it being a day of rest and to continue on with that whole social fabric concept that you expanded upon.

You will forgive me if I make a statement because I want to pre-empt perhaps what the Liberal members have been saying and it is this: I have been sitting here over the past while and I have been kind of lulled by some of the statements the Liberal members were making. I heard it again this morning and they say to the delegations "Don't worry. Don't worry if 57 per cent of the people of Ontario are opposed to Sunday shopping, then when the municipality is considering the issue the majority of people will be opposed to it, and there won't be expanded Sunday shopping."

I had this soothingly deceptive feeling about that kind of statement. It sounded right and yet I knew that essentially it was wrong and then I had to think to myself, let me look at unemployment statistics. We can say there is an unemployment statistic for Canada of 8 per cent, but then in Newfoundland, there is 18 per cent. In Toronto it may be less than 8 per cent. So in fact this 57 per cent is not evenly distributed across the province and, in fact, for the majority in any individual municipality for this domino theory to take effect, it records just 51 per cent.

So, we are not going to get this even distribution that the Liberals are trying to lull us with, saying "Don't worry, if people don't really want Sunday shopping it won't happen." It will happen, because there isn't that even distribution.

Mr. Ballinger: For a brief moment I thought you understood.

Mr. Farnham: We know that indeed the domino effect will come into being when one municipality takes action.

Obviously your being here you feel it is worthwhile. I suspect that you hope that the government will listen. If the government was to change its mind, would it affect the way in which you perceive Mr. Peterson and the government if they said

"Okay, we have listened to the people of Ontario. We are going to withdraw this legislation based on what we have heard"?

Rev. Oliver: If I may answer it in a backwards fashion, I think if the government does not make some major changes based on my perception and not only the church constituency but the wider community, it is pretty clear not wanting this. That would make me feel that we have an unresponsive, unlistening government and also a government that is too small to admit that they need a change of direction at times.

Mr. Farnham: I made a suggestion here yesterday in the form of a motion which was ruled out of order that before the government introduced this legislation for third reading that we should as legislators sit on Sundays for a trial period of six months so that we could experience for ourselves what we want to impose upon others.

Now, the Chairman, based on the rules, had to deny that motion going forward as being out of order, but it is something I intend to pursue in the House when the House opens on October 17th and to challenge the Premier and the Solicitor General that we as a legislature, I think it is important that we say "Yes, we will try it and see how it affects us." How do you think that idea, is that a good idea, is that something that should be done?

Rev. Oliver: I remember it from the news and it struck me as making a good point. From the public's perception, and here I am not speaking of my role as clergyman, but as a citizen, when the government pay raises go above the average, above inflation and above the average increase, the public says the power elite is taking care of itself and our great concern, now speaking as a clergyman, our great concern is for the weaker element of society.

Now, I know executives such as yourselves tend to work seven days and 20-hour days and this is a great pressure on you, but from the perception you do protect yourself in certain ways and I think it would be a useful thing to sit for six to twelve months before deciding on this. But, also noticing how the legislative assistants and others who have less power than you and aren't able perhaps to be away when the legislature is sitting, how they are

affected by this as well.

Mr. Chairman: Thank you, Mr. Farnham.

Mr. Farnham: Thank you.

Mr. Chairman: Mr. Chiarelli.

Mr. Chiarelli: Thank you, Mr. Chairman. Thank you, Rev. Oliver for your comments and the brief and taking the time to come here and share your ideas with us. I come from Ottawa, Eastern Ontario, and I was interested in your comment and I think I am quoting you correctly when you indicated that the local option was irresponsible buck passing.

The Mayor of Ottawa didn't attend before this committee but the Mayor of Ottawa which is the second largest metropolitan area in the province, did indicate publicly that he supports the municipal option and he doesn't support wide open Sunday shopping. The regional chairman of the regional municipality of Ottawa-Carleton said the same thing. He supports the local option but he doesn't support wide open Sunday shopping. They both feel the municipality is the proper place to make this type of decision.

Speaking of Eastern Ontario, the Mayor of Kingston supports this legislation. The Ottawa Citizen in several very strong editorials supports this legislation. The Kingston Whig Standard supports this legislation and in fact recommends that we go further.

Now, I can understand how people can have differences of opinion on public policy issues, but I ask you, do you feel also that the Mayor of Ottawa, the chairman of the regional municipality of Ottawa-Carleton, the Mayor of Kingston, the editorial board of the Kingston Whig Standard are irresponsible in recommending this "buck passing"?

Rev. Oliver: You put me at a disadvantage in that I am not fully informed.

Mrs. Marland: You are probably the only one in the whole province. The Mayor of Hamilton did.

Mrs. Cunningham: There was one more, Hamilton.

Mr. Chairman: Please don't jump in and answer the question ...

Mrs. Cunningham: He said he was at a disadvantage. I am giving him the facts.

Mr. Chairman: Let Mr. Oliver answer it. It is his time.

Rev. Oliver: As far as responsibilities go it is certainly not irresponsible for the officials of one municipality to state an opinion and in a pluralistic society I would expect there to be many opinions.

Mr. Chiarelli: Are they being irresponsible to use your words?

Rev. Oliver: No. If they are expressing their opinion for their level of government they are not being irresponsible. It strikes me, though, at your level, one of your responsibilities is to preserve the provincial good and that to have a plurality, a pluralism of options would be against that good.

Mrs. Cunningham: Such clear thinking.

Mr. Chiarelli: Mr. Chairman, Mrs. Cunningham is a frequent interjector in these proceedings. She has her time and her own rotation and she makes full use of the time and I sincerely would appreciate if she didn't interject when other people are speaking as a courtesy.

Mr. Farnham: I would move we give Mr. Chiarelli some extra time in order to complete his questioning.

Mr. Chairman: Go ahead, Mr. Chiarelli.

Mr. Chiarelli: The other point I would bring to your attention as I mentioned, the Mayor of Ottawa didn't come before this committee nor the chairman of the regional municipality nor the Mayor of Kingston, nor the editorial board and these people represent public opinion as well and I think that the government should take those opinions into account as well.

In addition, we have had two Tourism

Ontario groups come before us who feel that the local option will be used to close down tourism establishments, that in fact this legislation will give municipalities the option and the right to close things down more than they are now. So, there is that point of view on the other side from a group which is a very large umbrella group representing motels, hotels, tourist resorts, a very wide range of groups in the community.

They feel just the opposite to you, that this legislation is going to cause municipalities to shrink the amount of opening and permissible openings. Do you have any comment on that?

Rev. Oliver: I think from the top of my head my response would be that surely when we open this up to municipal decision there will be a variety of decisions and that one would expect especially if I am correct that there is a widespread concern against Sunday shopping that many municipalities will shrink, others will enlarge.

Mr. Chiarelli: Another point. The Retail Council of Canada has come before this committee. They represent the very large cross-section, some small, some large retailers, and they have indicated quite explicitly before this committee that that particular group has absolutely no consensus on this legislation.

Some support it, some are opposed to it, some want some fine tuning of this legislation and very, very specifically indicated that within the membership of the Retail Council of Canada there is no consensus. Do you have any comment on that?

Rev. Oliver: I am not an expert on that. I certainly have every reason to trust your facts. I would just reiterate what I said briefly in the statement that in our community, the business community feels very deeply. It is a community of small businesses, not large chains, and they feel they would be severely hurt by this legislation.

Mr. Chiarelli: I guess the point I am trying to get across to you is, that there are a lot of groups that come before this committee and a lot of them are very highly organized and orchestrated and so forth, but there are some very strong elements in the

community who don't feel as strongly as you do and some groups such as yourself.

Mrs. Cunningham: We had one this morning.

Mr. Chiarelli: We as a government have the responsibility of trying to come to some conclusion and biting the bullet, so to speak, and there are other points of view. I guess as well, what I am saying is I take a little bit of issue with your comment that the local option is "irresponsible buck passing" because there are large segments of people in the community, elected officials, et cetera, that think that the legislation is on the right track.

Rev. Oliver: Certainly I would respect their viewpoint.

Mr. Chairman: Thank you very much. Is it Reverend?

Rev. Oliver: Anything is fine. Yes. If I may, Mr. Chairman, I would like to mention that my cheering section, I do feel supported, I guess I didn't have to bring my wife after all.

Mr. Chairman: I notice your wife didn't talk during the discussions. Thank you very much Mr. Oliver. We appreciate your coming.

Mrs. Cunningham: Mr. Chiarelli always complains about my interjections. I love his questions. I get excited about them. That is my problem.

Mr. Chiarelli: You interject every time I talk.

Mrs. Cunningham: I know.

Mr. Chairman: On that note I think we will move on the Sunnybrook Foods Ltd. I understand Mr. Jules Goodbaum is your father?

Mr. David Goodbaum: That is right.

Mr. Chairman: You are vice-president of Sunnybrook Foods Ltd. You have 30 minutes. It is your time. We are here to listen to you. If you leave

time available there will be questions, comments, interjections, a whole host of things. So if you would like to start?

SUNNYBROOK FOODS LTD.

Mr. David Goodbaum: I am David Goodbaum and I am the vice-president of Sunnybrook Foods Ltd., operating six supermarkets throughout Ontario. I am here today to express my concern and the concern of the Jewish community regarding the impact of the Retail Business Holidays Act. For well over two years one of our stores located at 241 Wilmington Avenue in Downsview has been regularly charged with carrying on a retail business contrary to the Holidays Act. Our store on Wilmington is open because we are situated in a predominantly Jewish neighbourhood, and moreover our business there specifically caters to that clientele.

This store is within walking distance of not one but three Synagogues. We only sell kosher meat and we stock what is probably the largest variety of kosher products available in the City of Toronto, all of which is supervised by the Canadian Jewish Congress.

Our reputation extends from Vancouver to Ottawa, places where we regularly ship kosher meat orders. In addition to closing early Friday nights and Saturdays, our store is closed on thirteen other Jewish holidays as well as all other secular holidays.

At issue, of course, is that we open our days for business 9:00 a.m. Sunday mornings. I am not for unrestricted Sunday shopping, but under our circumstances I feel that my right and the rights of the Jewish community are being infringed upon by the Retail Business Holidays Act. We are not being afforded equal protection and the equal benefit of the law.

I respect the rights of the majority. I respect the idea that Sunday is the day of rest for Christians based on the Sabbath, but the rights of Jewish people do not, therefore, have to be infringed upon. If there are concerns about the social fabric of society I suspect that people are looking in the wrong direction by trying to restrict the rights of one small minority. To stop Jews from not having the option of being able to compensate for that, the absence of the

Sabbath on a Sunday to me is an infringement of his or her right as an individual and a citizen of this country.

The negative effect of the Retail Business Holidays' Act on Jewish people simply outweighs the legislative objective. The legislation prevents a Jewish person enjoying the benefits of having kosher foods available when he or she wants it. I am not saying non-Jews must shop on Sunday, but to the contrary. Christians can shop Friday night and Saturday. Jews don't have the same opportunity and governments should not make it more difficult for those who want to be observant.

In conclusion, the law should not give us something with one hand and take it away with the other. You cannot say we have freedom of religion and at the same time deny us those things which are important to us in our religious observance. If we are giving something more than mere lip service to the concept of religious freedom, then any legislation that curtails or restricts that freedom would seem to be not only undesirable but wrong. Thank you.

Mr. Chairman: Thank you very much. We have eight minutes and 20 seconds for caucus. Are there any questions of this gentleman? Mr. Kanter.

Mr. Kanter: Mr. Chairman. We did have a presentation previously from the Canadian Jewish Congress and your specific situation was mentioned in that brief, although my recollection of their brief was perhaps a little broader ranging than your particular circumstances, and I think they recognized some of the beneficial aspects of the new bill, particularly in comparison with the old legislation.

What I would like to do, really, is to explore two areas. Firstly the problems, pros and cons, if you like, of the old Bill, the law currently in effect, a law which has seen your particular establishment charged a number of times and secondly what we have tried to do with the new legislation to see what the pros and cons of it are in a comparative sense.

The old law as I understand it, the current law as I understand it, puts a restriction on your operation on Sunday.

Mr. David Goodbaum: Yes.

Mr. Kanter: In terms of the number of employees?

Mr. David Goodbaum: That is correct.

Mr. Kanter: Has that been a problem for you?

Mr. David Goodbaum: We cannot operate under those circumstances, nor should we have to. We are in a service industry that caters to a clientele and they are not sensitive to the laws by which we have to conduct our business. They are interested in being able to buy food at their convenience.

Mr. Kanter: To summarize the current law, it is not acceptable to your kind of operation, it causes a lot of problems to your type of operation?

Mr. David Goodbaum: That is right.

Mr. Kanter: In the new law we have tried to remove those size and number of employee restrictions, so if you are closed on Saturday, or indeed any other day of the week for religious reasons, you can open on Sunday without restrictions. That was the intent of the law. Can you tell us it might be appear that would be helpful for a store like yours? Can you tell us whether you think that would be the case?

Mr. David Goodbaum: Yes, that would be the case for our store in particular, yes.

Mr. Kanter: Again I am just trying to compare and I am just not sure whether some of your concerns may be aimed more at the old law than the new law. The new law does eliminate restrictions on size and number of employees on Sunday if the owner is closed another day of the week. I would think your store would have no difficulty meeting those criteria.

Mr. David Goodbaum: I am a businessman who has five other stores other than that store as well, and there are two issues involved. One issue is, I specifically referred to the store that caters to a Jewish clientele. I have five stores that are in

highly competitive areas and part of the problem of localizing the issue, particularly from a business perspective, is that you create a business environment that is almost impossible in which to conduct business under.

I think it has to be an all or proposition with the exception of, say, religious exception to the rule, but I see that the present law equally has its flaws.

Mr. Kanter: Okay. Now I am really struggling with this one because we have had a lot of deputants before us and you are the first one who has thought up this particular point. I take it your other stores are not located primarily in Jewish areas, you don't serve a Jewish clientele?

Mr. David Goodbaum: That is correct.

Mr. Kanter: Would your situation be eased or solved if the law permitted you to keep the Wilmington store open on Sundays, closed on Saturdays and at the same time permitted you to keep your other stores open on Saturday and closed on Sunday? That is the end result you would like to see?

Mr. David Goodbaum: Yes.

Mr. Kanter: I have a clearer idea I think of what the problem is. I am going to have to go back and consult with our legal advisors to see if the proposed law would have that effect or not. I think that is the situation I am in at this point. I am not prepared to give you a legal opinion. It is not my job. It is not something I am really suited to do, but I would like to explore the situation. I think I understand your objectives quite clearly now. Thank you.

Mr. Chairman: All right. Any further questions of the deputant? Mrs. Cunningham?

Mrs. Cunningham: Actually, Mr. Chairman, not a question. Just a tremendous amount of support for Mr. Kanter's questioning. I think he was right on, and I think he does understand the issue, and I think it is complicated. I think I understand it as well.

Mr. Ballinger: Oh, oh.

Mrs. Cunningham: Which makes Mr. Kanter really fret at the moment, but quite frankly it is the first request we have had for the consideration that you have put before us and I am not sure what the answer is, so I will be waiting to hear from Mr. Kanter on this one. We did hear from the Jewish Congress but their request was different, along the same lines, but they weren't asking for two solutions to the singular problem so I can only say I understand what you put before us and we are going to have to get some advice on what we can do to make it happen, or if it is even appropriate, but we are listening.

So, thank you very much for appearing and drawing this concern to our attention.

Mr. David Goodbaum: Is that all?

Mr. Farnham: Mine is just a very brief comment that it always strikes me as -- I don't know what the word is -- but it strikes me as bizarre that it is always presumed under questioning from the government members that this legislation is going to go through and the accommodation will be under the new law and that is a tragedy because really what we have been hearing as we toured the province is we have a law that has stood up in the courts, that has faced court challenges and survived and really what we need to do is to strengthen that law, define it more clearly and look at areas of situations such as yours to see where we can make accommodations within the old law, and toughen up the enforcement of the old law.

That is really what is needed, but for some reason or other, the government is determined to throw the baby out with the bath water and rather than looking at what is good and also recognizing what is bad about the old law and then simply coming to terms with it, we have had three task forces now. They have all said the same thing.

The people of Ontario have said the same thing to us on every occasion. "We want a common pause day."

Rather than going the final step and saying "Let's look at the present legislation, see where it needs refinement, toughen up the enforcement," the government, this government, unlike previous

governments including the minority Liberal government, has decided to listen to the people of Ontario. It may very well accommodate fine tuning and in fact it may be that your problem may be addressed in the legislation because the Premier and the Solicitor General have said "You can come here and you can talk about refining the process or fine tuning the legislation" but the essence of the Bill, the municipal option is non-negotiable. That is my concern and where possible I know that my party will try to accommodate those individuals within the new legislation that is being proposed.

Essentially we have to say we are opposed to the legislation on principle because of the municipal option and we regret that all of the energy that has been put into this issue, despite the majority of Ontarians who oppose it, if even half of that energy was put into refining the old legislation and enforcing the old legislation, I think we would be far better off and we would have a solution.

Mr. Chairman: Thank you, Mr. Farnham. Thank you very much, Mr. Goodbaum for coming before us.

Mr. David Goodbaum: Thank you.

Mr. Chairman: We appreciate the information.

The next group is Pollocks Home Hardware, John Wakulat, President and William Simmill, Assistant Manager. You gentlemen don't have 30 or 40 more gentlemen in red jackets to come bursting through the door? That is how good that commercial is. I think in anybody's mind it conjures up the 94 people in somebody's back yard.

Having said that, having given a commercial across Ontario, we appreciate your being here and you have 30 minutes to make your presentation before this committee.

If you use all of that time it is your prerogative and if there is some time left over I will divide equally among the various members on this committee. If you would like to proceed. Perhaps you would identify who is who for the record.

POLLOCKS HOME HARDWARE

Mr. Wakulat: I am John Wakulat and I

president and general manager of Pollocks Home Hardware in Toronto and this is William Simmill who is the assistant manager and in that sense an employee of the company. It is very short, as you can see, Mr. Chairman.

Down to basics, because I am sure you have heard a lot of the pros and cons, mostly con I am sure, but I have a short statement here about our own experience and most of our colleagues have the same opinion that I represent here tonight or this afternoon.

Also I haven't mentioned here I am also the Chairman of the Local Business Improvement Area which is again of the same opinion that I present here.

Mr. Chairman: Pollocks Home Hardware has operated a retail hardware business in the Toronto West End Area for over 40 years. At present we employ 21 full and part-time knowledgeable hardware employees. These employees serve the needs of the community on a six-day basis. We are opposed to the proposed amendments to the Retail Business Holiday Act for the following reasons:

1) Local Option

First of all, the local option approach will eventually lead to wide open Sunday shopping. If one town or city will allow wide open Sunday shopping, this will act as a catalyst to the adjacent municipality. As the market share erodes, the pressures on the other municipalities to follow suit will be incredible. Each municipality will be under constant pressure from some store owners to remain open. Each time a municipal council crumbles to requests, we will move closer to wide open Sunday shopping throughout the province.

2) The Bill eliminates the common pause day despite the recommendations of the all-party select committee on retail store hours presented in May, 1987. The recommendation was signed by the current Solicitor General, Mrs. Joan Smith. When and why did she change her mind? I would like to know.

3) Quality of Life

And that is what I am mainly concerned with.

I am deeply concerned what wide open shopping will do to the quality of life, in particular family life, in Ontario. I am especially concerned about the owners, operators and employees of small or say medium independent stores.

First of all, no legislation can protect me from myself. If there is wide open Sunday shopping, I would not abandon my staff that works on Sunday. I will also be there. What is going to happen to the quality of life of my family when I am working seven days a week? I have heard the argument that I can take another day off, but that is when my children are in school. As you can see, it is not a very pleasant prospect.

The 1987 select committee on retail store hours adopted the following principle and made the following recommendations:

Ms. Hart: I wonder if I could ask you to slow down. We are having trouble recording you and translating you. It would help a lot if you slowed down a bit.

Mr. Wakulat: I didn't realize it was being translated.

Mr. Ballinger: Every single word you are saying is being recorded.

Mr. Wakulat: I would not abandon my staff that works on Sunday. I will also be there.

And herewith I would like to repeat them for you.

A) Guiding Principle

The committee supports the principle of a common pause day in Ontario. Legislation regulating retailing on holidays, including Sundays, should therefore be structured to support the maintenance of such a common pause day, or day of rest.

B) The primary responsibility for the

administration of the Retail Business Holiday Act, or other legislation relating to retailing on holidays, should remain that of the provincial government.

In conclusion, we, the management and staff of Pollocks Home Hardware, support the fact that Sunday remain a common pause day. Sundays and holidays are important days for the family. Sunday is very often the only day that the entire family is able to spend together in cultural and recreational activities. It is often the only day set aside to reaffirm family closeness. Most people in the retail industry are deprived of a two-day weekend, so please do not take our one day away from us.

I hope, Mr. Chairman, that the committee will be successful in convincing the Liberal government to abandon Bill 113 and to support our stand for a common pause day by adopting the 1987 select committee on retail store hours report.

If I may add, regarding having listened to the previous speaker, the previous Act, if that has been strengthened or reinforced, I am sure that would be accepted by most of the retailers. It is just we are against this wide open Sunday which I know it is going to happen again. Thank you.

Ms. Hart: Is there anything Mr. Simmill has to add?

Mr. Simmill: Well, I have a few comments that I made on Bill 114 and it concerns the employees of the store and what happens if they decide not to work on Sunday, that the management of these retail stores may say "Well, if you don't work Sunday then you had better look for another position somewhere else."

Now, I have given it a lot of thought and I think in the Bill if this Sunday shopping does come about, I think the province has to give the municipality some guidelines on the employee end of the -- the labour end of the Bill.

My suggestion is that the employees be given two consecutive days off, plus a premium for Sunday. If there is a Sunday involved that you have to work, then a premium would have to be paid for that, time and a half -- not time and a half, or just some

little bonus to get them to work on Sunday, but I think we have to look at the labour end of the Sunday shopping.

There is another point that I want to make that there is only so much money in the marketplace and there will be people who cannot afford to shop on Sunday who may go out Sunday shopping and that new money will come from the credit card business and make the banks and everybody rub their hands that they are going to increase the credit card business, and there are people out in the marketplace that cannot afford to go beyond what they have now.

I mean, there is a lot of people that control their credit cards, but there is an awful lot of people that don't, and I think that that could affect some of it.

Mr. Ballinger: My wife must have been shopping in your store.

Mr. Simmill: Let's see what else I have here. I just came back from a holiday down East and I was in Bedford, Nova Scotia, which is a bedroom city to Halifax, and they had Sunday shopping a few months or a year ago and I was talking to some of the retailers down there and the only store that is open now is the Canadian Tire store and they pay a penalty every month to open that store.

So, if you want to check on somebody that has had Sunday shopping, get in touch with the municipality of Bedford in Nova Scotia, because it didn't work. The religious faction in that town had a great bearing on them. They tried it and it wouldn't work.

Now, that's the only place that I know that I have run across that did try it and they changed their minds.

I was concerned about the Solicitor General. She sort of took the chicken way out, somebody used that phrase. She wants to put this in the hands of the municipalities and I hope that the government themselves, the Liberal government, don't have -- are able to think for themselves and make their own decisions because it appears when we read some of the newspapers that all the thinking is being done by

one person and that is the Solicitor General and I would hope that is not the case.

This concerned me a little bit in Northern Ontario and I just don't want the same situation to happen with the Solicitor General in Northern Ontario when we had that broken promise about putting a road into Temagami and she had to call out the provincial police to get it settled. I hope the provincial police never have to come into the Handyman store to straighten us out.

Mr. Ballinger: Just pick up a hammer.

Ms. Hart: That is five minutes per caucus. Mr. Ballinger.

Mr. Ballinger: Thank you, Madam Chair. Gentlemen, it is a pleasure to have you here. I am a small retailer as well. We are not all big bad Liberals as our friends on the other side try to paint us, almost on a daily basis. I am happy to report in my own community as a retailer Home Hardware is one of the better competitors of ours in a lot of the housewares items we sell.

I was interested in your perception and you could help me by identifying exactly where your store is. Roncesvalles, is that the west end of Toronto?

Mr. Wakulat: Yes.

Mr. Ballinger: So, you are in the City of Toronto limits?

Mr. Simmill: Bloor and Dundas area.

Mr. Ballinger: You are aware because you have read the Bill that the decision at the municipal level within the Golden Horseshoe was at the upper tier level which means it will be off Metro Council which makes the decision and not local council. What do you think of that?

Mr. Wakulat: If it is in the metro Council and Mississauga or Oshawa opens or Pickering what is going to happen to Metro Toronto? It will have to open as well.

Mr. Ballinger: Who is going to make a decision for Oshawa and who is going to make a decision for Mississauga?

Mr. Wakulat: Regional level.

Mr. Ballinger: At the regional level.
Not at the local level.

Mr. Wakulat: Peel Region?

Mr. Ballinger: They are in the Region of Peel and Markham and the surrounding communities there and the Region of York and Oshawa is in the Region of Durham and Burlington is within the Region of Halton and Hamilton is in the Region of Hamilton-Wentworth. I think quite honestly from our perspective we have done exactly what your fears are. We have taken that concern with the domino effect and ensured that before any municipality makes a decision that relates to wide open Sunday shopping which this Bill does not purport to be, it ensures that that second tier level discussion must take place and it also means that the upper tier councillors, and let me just use your example, North York wanted, Mel Lastman in his wisdom thought Sunday shopping would be great, he couldn't even get support at his own council level, let alone take it to the Metro Council level.

So, I don't share the concerns that you have. In fact I think the Bill has very effectively taken away that sort of fear of the unknown. Our problem as a government is that we are constantly -- the forum does not allow us sort of an opportunity to discuss the good points of the Bill. Certainly in this process there have been some reasonable suggestions come out that we will be looking as a committee clause by clause to tighten up, but I personally believe that your concerns about the domino effect are covered in this Bill.

Mr. Wakulat: I hope you can guarantee it because it only takes one to open up. In Hamilton-Wentworth if one area opens up we are in it, and that is my feel and the feel of a lot of us in the Region.

Mr. Ballinger: Let me respond to the guarantee. There are no guarantees in life. I have been wrong many times in my life, but I must say to you, you know, I feel very comfortable with that

section of the Bill. I think it does what it was intended to do and the opposition have always talked about leave the Bill the way it was, tighten up a bit, redefine tourism.

Well, you know, it is really interesting when you discuss with people who are in the tourism business what their definition of tourism is, and it is so remotely removed from what you and I as individuals might consider to be a tourist and if in fact we took their interpretation of tourist and included that in the Bill, then there would be no reason to have a tourist exemption at all, because every business would almost comply with the definition.

Mr. Wakulat: I rather doubt it because in our case nobody is going to come across the border and buy a pack of nails or a hammer.

Mr. Ballinger: All tourists don't come from the United States. That is the interesting point you are making. That is why Harbourfront is so successful.

Ms. Hart: Mrs. Cunningham.

Mrs. Cunningham: Don't be dissuaded from your own principles that you have presented. I mean, I believe in going back to square one and my Liberal colleague, Mr. Ballinger talks about the fear of the unknown, well, I will tell you last September in the election if we thought, if anyone thought that the Liberals were going to be promoting open Sunday shopping, I think the theme down here in this building would be incredibly different and I still believe it will happen in the next election. Fear of the unknown was exactly what happened. No one talked, just as you stated, the Solicitor General signed a committee report. Everyone thought we were safe and the fear of the unknown was quite frankly what this government has done and I think what we need to do if the common pause day is important to this particular government and to this province, they will in fact define tourism which happens to be the flaw that they see in the Bill and they will give that definition to the municipalities as they have it now and by the way it has been tested in the courts and the present Bill has been upheld even with the present definition.

If they want a better one we are

prepared to work on it and we are certainly not prepared to look at only the tourism definition that was given to us, Mr. Ballinger, by that particular group. I mean that really truly would be silly.

Mr. Ballinger: If you want a drug store, 10,000 square feet ...

Mrs. Cunningham: I am talking about tourism. Don't get me off the topic. It would be downright silly to look at one. Let me tell you, don't get away from this local option, the first point that you made. The Solicitor General called it a myth, she doesn't agree with you, she doesn't think it will happen, and if she doesn't want it to happen, she will do something about defining tourism which is the problem as she states it in this legislation.

The other point that you made and I really appreciate it, is the common pause day being eliminated because I think you are quite right and in spite of the precautions that the Liberals have placed in this Bill by looking at the regional municipalities, in spite of that precaution, over a period of time just like store hours in the evening and you must remember that in Toronto, I do, we used to work on Friday night and then we worked on Thursday nights and then we worked on Wednesday nights. I am now talking as a student in the City and that happened over a decade of time.

So, you are quite right, we have a tremendous precedent for the domino effect.

The quality of life issue I really appreciate you said that and the fact you said "I will also be there" meaning if the store is open, I guess you are the owner and I would like you to respond a little bit to that one. What do you mean by "I will also be there." Why do you feel this need?

Mr. Wakulat: I can't leave the employees. It wouldn't be fair. We work together as a team. We are not boss and employees. We are not being where Mr. Agnew can say we can open up and Mr. Agnew doesn't have to work Saturday, a Sunday. He can take off and I don't feel that is fair in our case. We are a smaller operation and we work together. Like you see all the red coats, we work together as a team and if they are there I have to be there and I have to be

there with them. I can't abandon them and leave them on Sunday only and say they can work and the store will be open and I sit home with the family.

I don't think it is fair to them because they also have a family and that is what I fear in this case because a lot of our employees have small children including myself, I have two children, which if you hear them -- I was going to bring them here today, they like me home for Sunday and so do the employees like to be home on Sunday with their kids. That is what I would like to see. Don't consider the big buck. Consider us as a family and all of us in the retail business. I think this is what we are fearing, is that family life will disappear if we only have one day, not two days like a lot of people have in other industries, and we would like to be together with them for one day, please.

That is one thing we would really ask you for. That is all we ask you for and we hope the Liberal government thinks about the family, and not think about the big bucks.

Mrs. Cunningham: You underlined the most important part, but there is still more questions. I think you are a great guy and a small businessman too, and you don't work on Sundays.

Mr. Hampton: Gentlemen, I want to commend you on your brief. I note especially the section you put on the quality of life. I take it from your brief you consider that to be the most important part of the argument?

Mr. Wakulat: Exactly.

Mr. Hampton: You see this Bill as potentially threatening the quality of life of you and your employees? I wanted to sort of provide you with a bit of the other side to Mr. Ballinger's argument.

Mr. Ballinger says basically and so do his Liberal colleagues, because 57 per cent of Ontario are opposed to wide open Sundays that you don't have to worry.

Mr. Ballinger: I made that statement my way.

Mr. Hampton: I think that what they are doing is they are assuming we are faced with a static situation. One of the things that we discovered a number of times while this committee has been hearing, we heard from Sears department stores earlier and the president of Sears has been 35 years with the store and he recounted for us exactly how this happened in British Columbia, that one small municipality opened up far from the centre of Vancouver, and then it worked into a checkerboard fashion, until all of the lower mainland of British Columbia was open.

So, I think you are quite correct in your concern over the domino effect. It is interesting to note the Liberals say there is no domino effect, yet they recognize there is a domino effect. Otherwise they wouldn't have put in this attempt at a regional control system. I think even you and I have to admit that regions abut regions and all you need as we say is one region and then we are off to the races. In fact the president of Sears said that if the Liberals persist in passing this Bill, he said he would give it three years before the Golden Horseshoe was wide open.

I think your concerns are well placed. I wanted to say to you too, that you know no one asked the tourist industry to assist with the definition of tourism. With respect to the old legislation, the government didn't ask anybody for their assistance in trying to tighten up the definition of tourism or trying to deal with that definition.

I want to show you, just for your own observation, I think really the Liberals are trying to get on both sides of this issue. They are trying to say they are not in favour of Sunday shopping ...

Mr. Chairman: Did you pick that up?

Mr. Hampton: I think the Liberals are trying to get on both sides of this issue. They are trying to say they are not really in favour of wide open Sunday shopping and this Bill won't permit it, but you notice when the Premier visited Sault Ste. Marie he proudly stated he considered Sault Ste. Marie to be the Ontario capital of Sunday shopping, and if you read a little further in the story, he says "Many of the arguments against allowing retail store hours on Sunday are semi-rational." He says "To say working on Sunday

would destroy family life is just nonsense."

I think you should be aware of that, that even though this committee is holding hearings and even though the Liberal members here are saying "We don't favour Sunday shopping" the Premier in parts of the province where there is some Sunday shopping now says this is a great thing, and any of the arguments against what you are doing are "semi-rational."

So, I thank you for appearing here today. I thank you for presenting the arguments you presented. I think you are right, and I hope you will keep up the fight.

Mr. Chairman: Thank you very much.

Mr. Ballinger: I ask you to take a look at the Tourism Ontario definition ...

Mr. Chairman: As we discussed, committee members, Chairman Bean of the Region of Peel was not able to be slotted in at 3:30 because he is in New York, so we now have at 3:12 time before the next delegation which is arriving here hopefully some time between 3:30 and 3:45 so we are going to deal with Mrs. Cunningham's motion. You have had it read to you.

I wonder if I could persuade you, you have been so co-operative over the period of time of this hearing that we might put a reasonable time limit on the debate on this motion so that we don't interfere and have Ken and Carole Carpenter waiting around and having asked them to come early that they are not inconvenienced.

Could someone suggest a reasonable period of time we could have for each member to debate this motion? Mrs. Cunningham, it is your motion, so perhaps ...

Mrs. Cunningham: I think we have a precedent, do we not? Did we not say five minutes each and a couple of minutes to sum up or something?

Mr. Chairman: I think the way we did it before was five minutes each and the person who proposed the motion had a chance to respond for two minutes. Do we have unanimous consent for five minutes for each member on the motion and two minutes for the

mover to respond? All right, Mrs. Cunningham, if you would like to lead off with your five minutes then.

Mrs. Cunningham: Well, Mr. Chairman, I think that the issue of the definition of tourism was certainly first brought to my attention when looking at the Hansard and the statement of the solicitor general in the House when she introduced the legislation in December and she stated at that particular point in time that the government in fact were not able to define tourism, and I could quote her very words, with regard to her concern.

She said: "For example it would be virtually impossible to develop a provincial tourism plan which reasonably encompassed all facets of tourism across the province, yet was not so broad that virtually all commercial activity would fall within the plan."

I had difficulty understanding what that really meant, but I think the bottom line was that this particular part of the present legislation was a problem to the government and they, therefore, were putting this forth as a major reason for looking at the present Bill, and then ultimately introducing the Bill 113 and Bill 114.

Now, I came to be elected in March and so I am fairly new at the process and then was appointed as a member of this Justice Committee for the purpose of these particular hearings and at the very first meeting on the 3rd of August, I, of course, was present along with yourself to listen to the Solicitor General make her comments and she raised two very real concerns and the first one that I have some empathy for.

The first one was the fact that the present legislation in fact could not be enforced and in doing our homework and asking some questions we truly have not been able to come up with an example whereby the present legislation has not been able to be enforced and I am still willing to listen if someone can present a case to me where, in fact, someone has said the present legislation is not enforceable and I am open on that and I can be persuaded.

Having said that, I think the government has come up with some pretty good examples of new ways of enforcing, putting more meat into the new Bill,

which in my opinion could have been done by looking at the old legislation and beefing it up, but we will have a chance to talk to that next week.

So, for the purpose of today I am keen on looking at the definition of "tourism" because that was the other problem that she raised and I must admit I was really disappointed listening to the discussion and, of course, asking my own questions and listening to the answers of other questions to the Solicitor General on the 3rd of August, because I think she got herself in a bit of a state of confusion about whether or not she had listened to anyone or asked for input and in looking very closely at Hansard, I think the bottom line is that she stated that in her own words quote - unquote: "They had the opportunity" referring specifically to the municipalities AMO the Association of Municipalities of Ontario and another group has been very involved in the Sunday shopping issue and that is CAOSS.

Upon listening to numbers of representatives or witnesses that appeared before our committee, it was certainly brought to our attention that individuals and groups had not been asked for their input, and that I think is of concern, and should be for all of us because it made me particularly skeptical about the minister's explanation of how possible or impossible it was to develop a tourism exemption because, as far as I am aware, as I stated before, the present term in the present Act has not been successfully challenged in the courts.

So, I decided during the hearing, because after all we have spent a lot of time all of us together to listen to the public and it is costing the taxpayers \$90,000 and probably more, Mr. Chairman. I don't know but it is a lot of money and we had better make good use of the input that we have had.

So, I did ask some four questions, and the one I would like to speak to today is the question that I asked all of the witnesses on whether or not they would be willing to assist us in some criteria for tourism and in fact I went further in some of the questions and asked them if they could help us with some process for the implementation of that criteria.

I have had a number of them respond to me in writing and I think they do have interesting

proposals that this committee should be looking at, but in fairness, I think we should send a letter and ask them for further input.

Now, to make this motion responsible and workable, I discussed the process with the Clerk and I think giving them some 30 days to respond is reasonable. I understand that the government does want to proceed rather quickly with the legislation and I, you know, respect that. I think if we had a 30-day turnaround time we could then take a look at what we get over a period of another, perhaps, couple of weeks and get some assistance.

My understanding is that the Justice Committee does meet once the House resumes on Monday and Tuesday and we could pursue it that way, or we could pursue it in some sub-committee. I think our responsibility is to respond to the input and for the sake of the Solicitor General to respond to her concerns before we seriously look at passing this whole responsibility back to the local municipalities, Mr. Chairman, because the public has been adamantly against it and we should be looking at the alternative. Thank you.

Mr. Chairman: Thank you,
Mrs. Cunningham.

Mr. Hampton: To Mrs. Cunningham's motion a couple of things have become evident during the course of our hearings.

First, that a number of groups have appeared before the Committee, have said that they feel that the best thing that can be done with this legislation is to attempt to tighten it up in terms of the tourism area and defining tourism. I think we ought to heed some of those groups and what they have been offering to us.

Secondly, I think that as some of the tourism operators expressed, especially some of the tourism operators from Sudbury when they were here who are operating in unorganized townships at the present time, and operate tourist establishments, they expressed their uncertainty as to where they would stand if the law as proposed, the proposed legislation becomes law and one of the things that they were uncertain of is how they are going to be treated, what

is going to happen to them.

So, I think it would be quite worthwhile for this Committee to look at Mrs. Cunningham's motion and to pass the motion because I think we would be doing a service for the province of Ontario that some members of the Liberal caucus indicate the previous committee did not do.

I don't think wrestling with "tourism" or "tourist establishment" or "tourist area" is going to go away even if this legislation is passed. I don't think that it is going to, once and for all, disappear.

So, I think it would be a very worthwhile time spent for this committee to take a look at what some of the groups have to offer, they have said they would offer to us in the way of advice.

Mr. Chairman: Mr. Kanter.

Mr. Kanter: Mr. Chairman, I want to say first of all I really appreciate the co-operation of Mrs. Cunningham on many points, the drug store question, the Sunnybrook Farms question that came before us today, but I cannot support the idea of setting up a committee or a further process to come up with a definition of "tourism." Let me indicate four or five different reasons that I find this motion impossible to accept.

Firstly, Mr. Chairman, I think that the task of defining tourism, at least on a province-wise basis, is a very futile task. You know you look at the groups that have appeared before us and I have listened to almost all of them, there is a tremendous diversity of views between the groups, between the groups that Mrs. Cunningham would have us consult with.

We have Tourism Ontario that state that tourism is the direct supply of goods and services to facilitate business, pleasure and leisure activities away from home, it covers a broad range of products and services including transportation, participatory entertainment, conventions, meetings and symposiums, amusement activities and to a significant extent shopping.

You have labour groups that have

appeared before us and said they don't agree that we should be trying to define tourism. They would limit openings to resort areas and, by the way, they would cut back very substantially or like us to cut back very substantially on shopping during the rest of the week. We have Church groups, I remember one particularly memorably and I don't think it is on the list, but Mrs. Cunningham asked if they would help with the definition of tourism and they said no, they didn't believe in the tourism exemption, and there are many other Church groups listed on her list here that presumably agreed to assist in the definition.

My impression was that many of those groups had a very restrictive view of what should be open. There is geographic diversity of course, and I don't think setting up a committee of 230 is likely to work.

I don't believe, Mr. Chairman, that a definition of tourism could be legally effective. I know Mrs. Cunningham has said the definition -- the legislation with tourism in it has been upheld by the courts and that is quite true, but if you look at some of the cases where the process in Mississauga was challenged to open up a fruit stand, if you look at a test applied by the court, they basically asked the municipality inquire to see if tourism was involved? They had some scanty evidence to show that it was and that satisfied the court. Tourism was an empty shell. It was not a tight and effective and meaningful test. It was an empty shell.

Mr. Chairman, thirdly, I think that tourism criteria has been shown to be less than adequate even if it could be defined which I maintain that it can't be defined on a province-wide basis. You know we have talked and I know it may be getting a little tiresome, but we talked again and again about Chinatown which is one of the most vibrant parts of this community and we said if we are honest we won't admit that the real reason for Chinatown being open extends beyond tourism into multiculturalism.

If we look at Thunder Bay, we look at allowing seniors and disabled folks to shop on Sunday. You know, it seems to me that the opposite may also be true. There may be areas that attract a lot of tourists, like the Eaton Centre that we don't want to open. I faced this problem as a member of Toronto City

Council. They came before us repeatedly and said "We are the biggest tourist attraction in Toronto. The Act says we are essential for tourism. You have got to let us open." And we decided in the decision of the City Council at the time, no, they ought not to open.

It seems to me that there may be reasons beyond tourism to allow some place to open on Sunday and there may be tourist attractions that local councils decide ought not to be open on Sunday.

The fourth point, Mr. Chairman, it seems that the proposal of the member and I realize her attempts to keep it within a manageable timeframe, I don't think that would really occur. It seems to me that it is inconsistent with the timeframe the member herself set out. In fact she herself alluded to in her comments when we refer to this matter in the clause-by-clause debate next week, and we have tried to be as co-operative as we can in terms of setting out the time period, and I appreciate my member opposite, all members opposite have been co-operative.

It was really a decision by unanimous agreement to have the clause-by-clause discussion next week, and that would certainly be an appropriate time for Mrs. Cunningham to bring forward amendments and if she has been working on this and has some ideas from groups that appeared before us or wants to synthesize some of our views they will certainly be considered at that time.

Thank you for the warning bell,
Mr. Chairman. I have just about concluded.

Mr. Chairman, my concern is this motion would bring about a delay much longer than that set out in the motion, almost an indefinite delay. It would bring about much more debate perhaps, endlessly and fruitlessly on the subject.

Mr. Chairman, I know there are other things on the government agenda and more matters on my agenda and I suspect there are more things on Mrs. Cunningham's agenda. I think we agreed mutually to a timetable to debate this matter, I think the process has been established, it was a proper one and I look forward to the clause-by-clause examination next week, and certainly welcome any proposals that Mrs. Cunningham or others may have on tourism, or other

criteria that they feel could usefully be added to this Bill, but I would not be supporting the motion in its present form.

Mr. Chairman: Thank you, Mr. Kanter.
Mrs. Cunningham, two minutes by way of rebuttal or
Mrs. Marland.

Mrs. Cunningham: I would expect and I would hope that that position that Mr. Kanter just took must have been very difficult for him because none of it made any sense. To talk about not supporting a further process when we are talking about a quality of life issue, when the government themselves have said the definition of tourism is the main problem with the Bill, doesn't make any sense at all, not at all.

Labour groups talked about resort areas. That could be fit in. Church groups, specifically the ones in Windsor, the Baptist group which said they couldn't help us which have sent us a letter. We followed through on each one of these groups. Anyone who said they could help us or couldn't help us was missed. That particular group sent us a letter. He talked about a committee of 203 which is ridiculous. That is not what we are looking for at all. We are looking for some input. We are talking about upheld in the courts, this present definition and this particular Bill has been upheld. You should be sticking with this definition and refining it. It is ridiculous. I can't believe somebody with a legal mind would even say these things.

You talk about a process that doesn't work. Part of the recommendation talks about the development of criteria and method of implementation. Of course I am aware the process is just as important as the definition, so don't lay that one on us. It is restrictive. You talk about restricted views. We want to have open views. You are supposed to be a government that cares about input from the public, an open government and you are not even looking at this.

Let's get to the next point, less than adequate, Chinatown. We have been in touch with those people. The multiculturalism is something that could be associated with tourism and something we should be looking at, something we should be defining.

You talk about the Eaton Centre.

Perhaps what this particular group would say if we were really looking, the bottom line, the whole framework of this Bill is a common pause day. This government has said it themselves. Therefore, maybe we should be looking at restricting the size of stores. There are all kinds of things we could be looking at. We had input there.

We are looking at that, Mr. Ballinger, you know that, no problem. You talk about a manageable timetable. What is the rush? What is the rush with this legislation? I mean who brought it up in the first place? Who asked for it? Who wants it? I mean we shouldn't even be looking at a timeframe. We should be looking at public input first, listening to the people of the province of Ontario, having a vision for this province, a vision that is not like the Americans, not like open Sundays. This is ridiculous.

You talk about the clause-by-clause and amendment. That is silly. I mean you are not going to listen to my definition as we work and try to put one together on tourism when we get there. You don't even want to hear from the public. What hope have we got?

I would just like to talk one more moment, Mr. Chairman, if you give me ten seconds. You talk about my public agenda. My public agenda is open government and that was your public agenda when you ran in this election. Everybody was ready to listen to the public.

Now, in voting down this motion you have underlined the fact that you are not interested and knowing you individually as I do, I cannot believe that you are not being driven, especially you, Mr. Kanter, you are not being driven by someone else and that is the real problem. The real problem is none of you know why you are here and what you are doing.

Mr. Chairman: During these hearings, Mrs. Cunningham ...

Mrs. Cunningham: You have been a most impartial chairman and it is too bad people like yourself will lose your seat in the next election because my public agenda has now been created and underlined. Mr. Ballinger, keep quiet. It was my turn.

Mr. Chairman: Can we get back to the

issue at point? We have had the debate and the rebuttal that we agreed upon. We are prepared to deal with the question.

Mrs. Cunningham: I hope that wasn't recorded.

Mr. Chairman: I am going to call the question. You are familiar with the motion?

Mrs. Cunningham: Recorded vote.

Mr. Chairman: Recorded vote has been called for. Those in favour of Mrs. Cunningham's motion as read, please signify.

The Secretary: Mrs. Cunningham, Mrs. Marland, Mr. Hampton.

Mr. Chairman: Those opposed?

The Secretary: Mr. Ballinger, Ms. Collins, Mr. Kanter, Miss Hart.

Mr. Chairman: I declare the motion defeated.

Are Mr. and Mrs. Carpenter here? Perhaps we will have a recess until Mr. and Mrs. Carpenter are here. In fairness to them they are not scheduled until four o'clock, but we had asked them to help us by coming a little earlier. We stand adjourned until an indefinite time, I guess. We will adjourn until a quarter to four or sooner if Mr. and Mrs. Carpenter arrive.

---Recess

Mr. Chairman: Back to the session. We have before us Mrs. Carole Carpenter, is it?

Mrs. Carpenter: Right.

Mr. Chairman: Mrs. Carpenter, you are welcome. You have 30 minutes to present your brief to us. You can use all that time if you wish. That is your prerogative. If, by any chance, there is time left over I will divide equally amongst the various members of the parties that are on this committee, the three parties. If you would like to proceed.

Mrs. Carpenter: Ladies and gentlemen, I come before you today as a representative of various groups among the citizens of this province. I am a woman, a wife, a mother of two children, an educator at a post-secondary institution, a professional scholar of culture, a director of a provincial institute, the Ontario Folk Life Centre, and president of a National Organization, the Folklore Studies Association of Canada. In my spare time I even read.

While I will lay no claim at all to being a typical citizen, yet I am certain that my concerns are shared by many others similar to me in certain respects.

As a woman, I am deeply concerned with the necessity to satisfy the many and disparate demands facing modern females. I do want to be a homemaker and to have a career, to have children and contribute to my profession, to cook excellent meals and produce significant studies. Hence, I must be exceptionally organized, highly energetic and very efficient in my time management.

The fewer accommodations I have to make and of course they are legion in any one's life to restraints and when, where, how I can or must do anything obviously the better.

As a wife I am profoundly concerned about the quality of life I share with my partner. Separately we both lead very demanding lives. My husband too is a professional. He was to be here today and I regret he was not able to come. Again we should be able to do this when and in what fashion we can not constrained by some dicta that purports to support a desirable way of life. Desirable for whom?

As a mother I am committed to providing my children with an environment in which to grow emotionally as well as physically, to explore themselves and the world, to experience and to make choices based upon values and principles they learn to appreciate. Obviously I need time to be with them, to share their activities and to expose them to experiences, books and people who will enrich their lives and help them become what they are capable of being. This time simply does not come magically on one day. There is no way in which I can schedule life

experiences. I must take and make time as I can again with as few restrictions as possible on when and where.

I work five days of the week in my office and in my professional commitments. I also do research with those commitments and Saturday is a day in which there is no simply sufficient hours for anything. My children are engaged in sports, they are engaged, we go to the symphony concerts, we go to the various science centres, and we are engaged in community activities and I simply don't have time many times on a Sunday -- I am sorry -- on a Saturday to buy the family groceries. When am I to buy the family groceries? In the evening when very few stores are open? When the stores were open on Sunday many is the time that the children and I went together as one of my friends who heard I was coming here said, "The kids eat it, they want to be able to buy it."

We couldn't go and do that on Saturdays because there is hockey practice and there is whatever other practice. There are engagements in one form or another. Not all children are like mine, but more and more and in more and more households people work five days a week and for them to have to then gear all the work that they otherwise have to do outside the home into one day and then say that you must have the other day apart from those activities, and somehow that is going to ensure family values, I find very difficult to appreciate.

As an educator, a professor in the division of humanities at York University, I am involved in the perpetuation of society's values through passing on knowledge to future generations. I am well aware of the need for values, of the function of societal values, of changes in culture, of threats to our value system and the like.

It is, however, evident from even a brief survey of western thought over time, that the greatest threat to values has come from perceptions of limitations of personal positive freedoms. That is, freedoms to do, freedoms to be, freedoms to come, freedoms to dream. Negative freedoms, that is, freedoms from various things in the main and in their extension as the basis for behaviour in a society have been associated not with Utopias or what is commonly and so-called the best of all possible worlds which we would aim for but with dystopias, the bleak cultures of

Brave New World, the Fahrenheit 451 wherein the former no imagination is possible or the latter books are burned because they make people think, but nobody goes hungry. Nobody fights. There are no problems. But these are not worlds to dream of for Ontario.

As a professional scholar of culture I am perplexed by the conflicting messages within Ontario today. We are urged to think of ourselves as a multicultural society. One in which each person of whatever heritage is free, indeed encouraged, to preserve that heritage, but yet the law demands a day of rest, Sunday, the Christian Sabbath.

Why is one religion favoured over all others? What else can it be but ethnocentrism and a continuation of the insidious Anglo-conformity that has been inherent in so much of the policy, planning and cultural operations of Canada?

I personally do not adhere to any one faith alone, but respect the right of all persons to judge for themselves which day, or portion thereof, they wish to keep free, holy or restful. What in the final analysis is the role of society? To contain and restrain citizens to fit into some desirable mould which would certainly not be in keeping with our supposed mosaic and all the rhetoric along with it, or to be more humane and more truly human through permitting each to be as he/she wishes without impinging on the other?

As one who has personal as well as professional connections throughout the country I am amazed that Ontario should consider itself to be the keeper of the nation's values. In my experience, which involves regular sojourns in British Columbia, there has been no perceptible diminishing of family traditions or social moral standards in that province since the elimination of restrictions on Sunday openings within recent years, most specifically since just shortly before Expo. Indeed, friends and persons I meet casually repeatedly express their satisfaction with free Sundays there, free in their terms, that is, to do what they wish to do with Sundays, and wonder why Ontario would not have the same situation.

I have in a small community with which I am most familiar in British Columbia, and that is Courtney on Vancouver Island, done my own little survey

of persons who work in shops, shopkeepers and various people who utilize different facilities and repeatedly, and this comes from people that I believe I have heard who said are going to be protected, namely the shop clerks who are going to be forced to work in the stores if the stores are open on Sunday.

Shop clerks, especially females who are marginal anyway, have regularly claimed that they would prefer to work on Sunday because that way their family can look after the child or children and she doesn't have to pay for child care. So, Sunday is a preferable day for many people to work on. For others it obviously is not, but they do not feel compelled to work. I have not heard anyone yet in my little survey say that they had to work.

The stores are my no means all open. There are stores open in the malls, the one big mall in Courtney, but not all stores are open. There are some stores open on the main street, but by no means are all the stores open. People stay open, people stay closed as they choose and as they are willing to suffer, if you will, to lose business, to make business according to their own desires.

Now, this brings to mind another circumstances. My husband and I were on sabbatical in Italy, a place many of us would associate with religious tradition, with staunch, firm attachment to Christian tradition. Italy is by no means closed on Sunday. Sunday afternoons most restaurants are open and a large number of persons go to a restaurant which they can afford. So many people work in restaurants on Sunday afternoons. This is a typical pattern.

However, the best restaurant near where we lived was not open after Friday at noon. This restaurant could have been tremendously successful financially. It could have had made many more dollars but they elected to be closed on Saturday and on Sunday and on Friday evening too, because it was run by a family and they preferred to spend the weekend with their families. They made enough money. They had a good life, and that was their choice. Nobody was restricting them to do anything.

It seems to me that we should be free to make our choices. I do not believe that Sunday closure laws are truly for the betterment of this society at

large either as a person, as a scholar, as a mother, as anything. It just doesn't seem to me that this is going to ensure values that we consider dear. Those who wish to keep Sunday as a day of rest ought to be entirely entitled to do so if they wish to, but ought to be willing to make sacrifices for what they believe in. If they believe Sunday should be a day of rest, fine, let them close their businesses. Does everybody else have to go along with that? I don't see why. Those who wish to keep some other day for some special purpose have for years been closing their businesses and are prepared to make those sacrifices. We must all be prepared to make sacrifices for what we believe in, for what we hold most dear.

I, for one, have sacrificed vast amounts of my time in order to spend that time with my children so I work very, very late hours. I do not believe that somebody else should care for my children and so my husband and I run home every day from school, one or the other of us, in order to be at home to meet them. We happen to be lucky and able to do so, but it involves sacrifices. Other people choose to make sacrifices in other directions.

We should all be able to support our values, our traditions, our beliefs, but we should as well, appreciate the rights of other people to do so. That is what is our multicultural society is supposed to be about.

I urge the government of Ontario to eliminate laws that effectively make Sunday a special day, a day on which I, for one, feel I am not currently able to live as I would like and in a manner whereby I might freely ensure the continuation of family, societal and cultural values that I personally hold dear.

Mr. Chairman: Thank you. It is about five minutes and forty seconds each. Mrs. Marland and then Mr. Hampton.

Mrs. Marland: Thanks, Mr. Chairman. I certainly was encouraged to hear Mrs. Carpenter say that she had done a little survey because I think that you would be interested to know, Mrs. Carpenter, that this committee is the third legislative body that has toured the province and it is a very large survey of over 300 deputations to this committee, and you happen

to be one of six who are in favour of Sunday shopping.

However, when I listen to your description of how you manage I think you are very fortunate. First of all you are not a single parent and you don't have to work on Sundays and I think when you are talking about the freedom to shop, I wonder if you have really stopped to think about the people who want the freedom not to work. Listening to you I think that you obviously must be the Liberal dream and the workers' nightmare. You did talk about the right of different religions.

Mr. Ballinger: It depends on how you read it.

Mrs. Marland: I am wondering, Mrs. Carpenter, if you are familiar with section 5(1) of the Retail Business Holidays Act which is the sabbatarian exemption?

Mrs. Carpenter: Yes, I am.

Mrs. Marland: Would you not agree that addresses your concern about the rights of people of different religions?

Mrs. Carpenter: Perhaps, but not adequately. I think that there are many religions in this country now and in growing numbers, and I think that there are many people who yet feel coerced to operate according to a Christian set of holidays, a Christian set of principles, and I don't think that that is really truly in keeping with the multicultural idea and that particular section suggesting that a Sabbath alone, let alone other special holidays and so forth is hopeless.

Mrs. Marland: The sabbatarian exemption grants any day of the week to the business operators, so it doesn't say just Sunday, but any day of the week. You said you didn't think the government should be a keeper of the morals and as an educator who is responsible for obviously university-aged children in your case, first of all, how old are your own children?

Mrs. Carpenter: Seven and nine.

Mrs. Marland: If government isn't

going to be responsible for legislation to protect people sometimes against themselves even, who would you suggest would have that responsibility if not government?

Mrs. Carpenter: Educators perhaps. If it must be done ...

Mrs. Marland: Would you think if educators have the responsibility of being the keepers of morals that those educators, no matter what their own personal beliefs and we may talk about educators of different sexual beliefs, for example, would you concur that they should have the freedom to teach their own morals based on their own sexual habits or interests or diversity?

Mrs. Carpenter: No, but I am not arguing that anybody should essentially, I am arguing against negative freedoms. Society entering in and protecting people from essentially the beliefs or practices that essentially are not dangerous to somebody else. If somebody wishes to adhere to an essentially Christian orientation and the preservation of a day or separate or different, fine, but why should they impose that on anybody else, telling them it is good for somebody? How do they know it is good for them?

Mrs. Marland: My question on morals wasn't to do with Christianity. It has to do with leadership and responsibility. Who is going to protect the owners or the workers. You want your freedom but who is going to protect the workers who also want the freedom not to be coerced to work on Sunday? You just said that people are coerced into religious compulsion. Who is going to protect the workers and give them the same kind of freedom not to work when you want the freedom to shop?

Mrs. Carpenter: It is not an issue of protecting a single group of workers. I don't believe there has been a hue and cry out of the British Columbia labour force that the workers are not protected to work on Sunday. I haven't heard that and I would really like to see that documentation somewhere that the workers -- my little survey as you wish to put it -- I don't think stands in opposition to the findings of what goes on in British Columbia now. Now, if there are laws necessary to protect workers, I think

they should be of a different type of law.

Back to your issue, and I am willing to open that to suggestions from labour lawyers, I think.

Mrs. Marland: Do you think governments should be responsible to make legislation work for the majority of people or the minority number of people knowing that the majority of people of the residents of Ontario want to preserve a common day of pause? Do you think it is the obligation of government to represent the majority of people in a democracy?

Mrs. Carpenter: Not in the name of that being done against the minority. It was Pierre Trudeau who said that it is the job of the multi-cultural society to protect the right of the minority in the face of the will of the majority, and I believe very strongly in that.

Mr. Chairman: Mrs. Marland.
Mr. Hampton, five minutes, 40 seconds.

Mr. Hampton: Have you looked at the current legislation the government is proposing?

Mrs. Carpenter: I haven't been privy to that. As I tried to propose I have other occupations here and I have been through all of the proceedings with the efforts to open book stores on Sunday.

Mr. Hampton: Do you know generally about what is contained in the government's current legislation?

Mrs. Carpenter: Current legislation or proposed?

Mr. Hampton: Proposed legislation.

Mrs. Carpenter: I don't know anything about the proposed legislation.

Mr. Hampton: Generally you would be in favour of, as you say, wide open Sundays?

Mrs. Carpenter: Uh-huh.

Mr. Hampton: You assert that is a

maximum freedom for all?

Mrs. Carpenter: I believe in government facilitating, not restricting, particularly in this regard and, therefore, yes, I would believe that is freedom.

Mr. Hampton: You feel what the government is doing then in Bill 113, the so-called municipal option is the appropriate way to go?

Mrs. Carpenter: I do think municipal groups, I mean if it really is the desire of a group, of a community that has a particular constituency to have a particular restriction of sorts, yes.

Mr. Hampton: One of the comments you made, I just wonder if you could explain to me. You said female shop clerks are marginal. What do you mean by that?

Mrs. Carpenter: They are marginal people. They are people basically who, in many instances, they have to work to help keep their families so they are marginal economically. They are on the fringe of economic opportunity in this society. They very often are people who rely upon day care and so forth and therefore a large proportion of the money that they earn does not come into their home. It has to go -- they are kept -- they are restricted in their opportunities.

Mr. Hampton: Okay.

Mrs. Carpenter: Females are marginal in the first place in this society.

Mr. Hampton: You feel Sunday working would be good or would be to their benefit?

Mrs. Carpenter: Possibly for some, possibly not for others. I would hope that what emerges ultimately will make it possible for people to make their own choices. If it is better for a given woman to have her children cared for by her husband on a Sunday when he is not working at his job and thereby the children can spend the time in a family situation as opposed to in some sort of institutional or babysitting situation, I would say more power to the woman. I wish her well and I hope she would be able to

do it. I would like to have that opportunity myself if I were in her position.

Mr. Hampton: One of the interesting surveys that we saw, just giving some examples, the United Food and Commercial Workers, a minority of the retail sector in Ontario is organized. A minority of the retail sector in Ontario, a minority of the workers in the retail sector have a union to act for them, to give them some bargaining power.

The United Food and Commercial Workers says most of the clerks who work in the retail sector are women. They also a great number of them are single parent mothers. Even more alarming they say the greatest number have no representation at all. They don't even have a union, whatever strength a trade union can give to you. Now, who is going to look after their freedom? Suppose they would rather be at home with their children?

Mrs. Carpenter: Suppose they would rather not?

Mr. Hampton: Suppose that is true, who is going to look after their freedom?

Mrs. Carpenter: Obviously the government in some form of legislation has to protect them. I am just not convinced that insisting that one day be a day when they cannot work is the answer to that. I believe that there should be some sort of law, I mean, that makes it possible for people to make their own choices in this regard.

Mr. Hampton: One of the things that has happened over and over again is that we have had independent business people come before us and say "Look, don't put us under the pressure cooker any more than we already are. If you allow Sears, and you allow the Bay or you allow Marks and Spencer the freedom to open on Sunday we will have to open. We will have to open because the retail market is a very competitive market and we will lose our market share. Therefore, we lose our lifestyle. We don't have the money. We don't have the profit margin to be able to hire extra people on Sunday. We will have to come in and work ourselves on Sunday." Who looks after their freedom?

Mrs. Carpenter: Well, they should look

after their own in the sense that I don't believe -- you know, if they wish to stay open, they wish to stay open. If they wish to stay closed, they wish to stay closed. That is precisely the argument I was raising with respect to this restaurant in Italy. Those people could have made much more money but their value was to be with their home and their family. If that is your choice, that is your choice. If your whole aim in existence is to get your fair market share, then go right ahead.

Mr. Hampton: I want to point out that restaurants are somewhat different than the retail market. Restaurants sell highly specialized products. Retail markets aren't that specialized.

Mr. Chairman: Thank you, Mr. Hampton.

Ms. Hart: I would like to continue on with that line of questioning that Mr. Hampton raised that restaurants are very specialized retailers. Also there are many other types of retailers that are very specialized and it would seem difficult to come up with some rationale why workers in restaurants don't need to be protected, but workers in retail stores do or as the previous deputant said, workers in unobtrusive kinds of businesses such as keeping a store or ice cream stand or baseball game vendors don't need that protection. Could I have your comments on that, please?

Mrs. Carpenter: I find it just a little alarming. I love to cook and I am teaching my children to cook and entertain and I find it a little alarming that I can go to my local fast food chain on Sunday and eat there but I can't go to a grocery store where I can buy meat at a normal price and purchase hamburgers so that we can make it at home and we can have a family meal or entertain their friends or whoever.

So, my response to that is that I think that it is inequitable as it is now. There are people who are benefiting tremendously from Sunday openings and if other people wish to get into the market they should be permitted into the Sunday market. If people don't wish to be in the Sunday market, fine, but now the system is ludicrous. I mean to define book stores as being suitable to being open, but some other type of stores that somebody else finds enriching to their life not open, you see, I don't accept that.

Ms. Hart: You referred earlier to the pressures on wives and mothers and workers to balance your time and all your many tasks in the week. One of the tasks that you referred to was grocery shopping. Now, we have heard other deputants say to us that grocery shopping on Sunday is going to be harmful, a harmful influence on the family. Could you comment on that, please?

Mrs. Carpenter: When stores were open I found that it was a very efficient way to shop and it freed me up for the time for other activities on Sunday and made it possible for me to be present when my children were participating in activities on Saturday or to take my daughter to the symphony or to another cultural event.

In the first place I think a family can enjoy shopping together if that is what you like to do as a family, but if you can do your shopping when you choose you can also be with your children when they need you.

Ms. Hart: Another area I would to explore with you since you are an educator. We have heard from a deputant or more than one to this committee that the experience out west by the retailers is that they very often use part-time workers to work on Sunday and a number of these part-time workers are students and we have heard from some other deputants that students, if they work during their education, that is harmful to their educational opportunities. As an educator could you please comment on that?

Mrs. Carpenter: At York University I would say the majority of students hold at least one job and sometimes two and sometimes three. Many of them work at least as many hours as they are in the classroom and they have to do that in order to pay for their education or to help the family that they are not otherwise earning a salary to be in. I believe that it is not harmful if students can get a certain amount of time to work and that again has to be fit around schedules. I think the possibility of their working on Sunday would be useful for many of them, and I think that is good. Unfortunately the financial situation of education nowadays being what it is, many of them are forced to work and it is a reality.

Ms. Hart: We appreciate your coming forward. We haven't had too many representations similar to your own. You will hear from the opposition that that is because there aren't any other people with your view or not many. Perhaps you could comment on that?

Mr. Ballinger: They were told to say that.

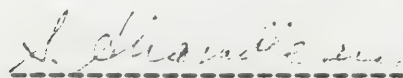
Mrs. Carpenter: I don't believe that. I unfortunately think that many people like myself, you know, haven't come forward because they don't realize that they should come forward or that they will be heard or that they might possibly make an impression. My family is a very political family. We are politically active. I come from a political heritage and I believe in the political process and want this government, the government that I work for in various ways, I want it to represent me, and I believe that there are many other people like me in one or another respect.

Mr. Chairman: I think the time is up. We appreciate your coming forward and presenting your views. Everybody appreciates that. Thank you.

We stand adjourned until ten o'clock tomorrow morning here.

---Adjournment at 4:32 p.m.

Certified Correct



S. Shambleau, C.V.R.

CAJON
XC14
-578

J-34a

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT

THURSDAY, SEPTEMBER 29, 1988

Morning Sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Philip, Ed (Etobicoke-Rexdale NDP)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

Ballinger, William G. (Durham-York L) for Ms. Poole

Collins, Shirley (Wentworth East L) for Mr. Keyes

Cunningham, Dianne E. (London North PC) for Mr. Sterling

McGuinty, Dalton J. (Ottawa South L) for Mr. Chiarelli

Clerk: Deller, Deborah

Witnesses:

Individual Presentation:

Markin, Joseph, Lawyer

From the City of Oshawa:

Pilkey, Allan C., Mayor

Nicholson, Brian, Alderman, Regional Municipality of Durham

Dionne, Linda, Alderman, Regional Municipality of Durham

From Corso-Italia:

Lamanna, Connie

Lash, Lily

Individual Presentation:

Summerfield, Mike



1
2
3 There are other jurisdictions where Sunday has
4 been a time when shopping has been permitted and the
5 experience from those jurisdictions has shown that what
6 people anticipate may happen if there is a wide open
7 Sunday, in fact does not happen. There is a novelty
of Sunday opening for a short period of time, and this
past year, when they had that Sunday opening, there was
a mad crush, all kinds of people came out. I was in
Yorkdale myself and you could not move.

8 So that tells you one of two things: Either
9 there is such a tremendous demand that probably we should
10 not be restricting it, or it is just a novelty and that
11 novelty will wear off; and when that novelty will wear
12 off, you will see that a lot of stores will voluntarily
13 be closed, because the only real function of having
Sunday available for shopping is need, and when there
is not the need there are plenty of other things to do
on Sunday. You do not want to bother going shopping
and you will have plenty of opportunities through the
rest of the week to go shopping.

14 That is in fact the experience, I have lived
15 in New York City for a couple of years, in the City
16 of New York, where they have open Sunday shopping, and
a lot of people keep the stores closed. They do not
want to be open Sunday, because the rest of the week
is available and that novelty wears right off.

17 If there is a need for a compromise, I might
18 suggest that the Committee might look at maybe not
19 every Sunday being open, but maybe two Sundays a month
20 would be available; and within that experimental type
21 of framework, one would discover whether or not there
22 is going to be a tremendous breakdown, that some people
have submitted, if Sundays are open, or that the
novelty will wear off with even two Sundays a month.
Some type of compromise like that might not be totally
out of the question.

23 If for some reason, though, there is a
24 recommendation and implementation of a law that will
25 keep Sunday closed, then one should be very careful



1
2
3 to protect the public, and I say that in quotations,
4 because obviously that would be the intention of keeping
5 Sundays closed, that if in fact the public needs that
6 type of protection, to protect the public accordingly,
7 but at the same time give protection to the minorities
8 that would adversely be affected by Sunday closings.

9
10 That brings me to the particular issue I wish
11 to address and that is the fact that I am involved with
12 LeKarem Koshter Wines.

13
14 LeKarem Koshter Wines is presently produced
15 under the auspices of Chateau Des Charmas, a licenced
16 winery in Ontario.

17
18 LeKarem Koshter Wines has presently made an
19 application for their own licence, to establish their
20 own independent winemaking facilities and marketing,
21 which hopefully will be in place for next year's wine
22 harvest.

23
24 There has been a wine store operated through
25 Chateau Des Charmas for exclusively marketing kosher
wines and that store is found at 3418 Bathurst Street
in Toronto.

There is a question as to whether or not that
store is governed by the existing Retail Business Holidays
Act.

Originally the Liquor Control Board advised us
that it was and, therefore, because it was closed on
Saturday and in fact closed from before sundown on
Friday evening and all day Saturday, that we were
permitted to be open on Sunday under the Business Holidays
Retail Act; and in fact that is my interpretation of
that Act.

Subsequent to that, based on some people
making complaints that if a wine store is going to
be open on Sunday, Looke out, the devil is going to
destroy you, and the L.C.B.O. advised us that we were not



1
2
3 permitted to be open on Sunday. They did not mind so
4 much the need for kosher wine for the religious Jewish
5 community, but they were afraid that once the store
6 is open, every drunk in town is going to be coming there
7 Sunday to buy wine. The fact of the matter is that no
8 drunk has ever been there to purchase wine. So that
9 fear is totally unfounded.

10
11 Aside from that, the L.C.B.O. felt that the
12 existing Act did not cover wine stores, because primarily
13 this was a Chateau Des Charmas operation and Chateau
14 Des Charmas seeks to maintain a good working relationship
15 with the Liquor Control Board. We have abided by that
16 ruling and at one point we were thinking of going to
17 Court, not by way of a violation or an alleged violation,
18 and having it tested in the Criminal Court, but there
19 are provisions under the Civil Court procedures, under
20 the Civil Rules of Practice, where a determination could
21 have been made as to whether or not the Act governed,
22 and the fact was that Chateau Des Charmas did not want
23 to even go that far. They did not want to rustle any
24 feathers.

25
I would point that out under Section 2 of the
Business Holidays Retail Act, that section is the section
that prohibits the operation of a retail business on a
Sunday, and Section 5 makes an exception, it says, Section
2, and I am reading from it:

"Section 2 does not apply in
respect of the sale or offering
for sale by retail of liquor
under the authority or licence
or permit issued under the Liquor
Licence Act."

Because there are licences that are distributed
or made available for the purpose of selling liquor at
various functions or restaurants on Sunday and the
Act specifically went out of its way to say that if you
get such a licence, you are not governed by this, which
would indicate to me that liquor sales are governed by



1
2
3 this Act because if liquor sales were not governed by
4 this Act, there would be no need to make that exception.

5 Section 4 gives an exemption for the businesses
6 that are closed on Saturdays. So I would suggest that
7 legally right now under the existing Act -- and I have
8 been shown no legal bases otherwise, and I have gone
9 through every Act I can think of and there is no other
10 provision -- that legally the store could be opened on
11 a Sunday, if it was closed on the Saturday.

12 I could have had a big crowd come here this
13 morning in order to support this particular point,
14 because the store sells wine basically right across the
15 province. People come in from all over the province to
16 attend at the store and to make purchases. There are a
17 lot of people, Sunday is the only opportunity they have,
18 and Sunday is a shopping day for food and things of
19 that nature, in the Jewish community, and if you drop
20 along Bathurst Street, every food store is open and the
21 supermarkets are open, all the Jewish stores are open,
22 because that is the day when they shop.

23 We have a lot of complaints, and people urge
24 us to do something to try to get the store open, so
25 that wines could be made available.

I would point out, for example, there is a
lot of wine consumed in the Jewish community during
passover and during that period of time there are several
holidays that come up, besides passover. You have Good
Friday, you have Easter Monday and various other days
that happen to coincide, and if we are closed on Good
Friday, on the Saturday and on the Sunday and Monday,
people just do not have an opportunity to acquire wines
that are basically used, not for even social purposes
but for religious purposes and part of the meals that
we have during those holidays.

So there is a great deal of hardship that
will take place and in fact does take place because of
the severe restrictions under which we are conducting



1
2
3 ourselves, even though we feel that it is not absolutely
4 required under the law presently.

5 Be that as it may, this law is going to be
6 undergoing a change and I am strongly urging upon the
7 Committee that some consideration be given for those
8 types of businesses that will be adversely affected by
9 a complete restriction on Sunday opening, and even though
10 this happens to be wine and wine somehow has a liquor
11 connotation, which is somehow very negative in some
12 circles, it is a very essential part of the lifestyle of
13 a good portion of the community that we have in this
14 province, and appropriate considerations should be made
15 to allow a store that has been closed twenty-four hours
16 previous, to at least be open on Sunday.

17 I can assure you that if there is a concern
18 about all the wine stores being open on Sunday, none
19 of the other wine stores are going to close Friday night
20 and Saturday, in order to get some business on Sunday;
21 and if they are prepared to do that, I cannot visualize
22 the entire wine industry closing all of their doors
23 on Friday night and Saturday, in order to be open on
24 Sunday.

25 If the requirement be that a wine store must
be closed from sundown on Friday night until an hour
after sundown on a Saturday night, in order to be open
on Sunday, I do not think you are going to be opening
up any wide doors and loopholes. Nobody will do it.

If you want to ensure your stores are going
to be open on Sunday, it must be all of your stores
that are closed on Saturday and not individual stores.
Then you are going to have adequate protection to ensure
that what you are serving here is a community that needs
protection rather than letting the devil out by the
opening up of wine stores.

Those are my submissions.

Mr. Chairman: Thank you. We are now going



1
2
3 to divide the time, but there are only two parties here,
4 so with unanimous consent, I am going to divide it just
5 as if the third party or the official opposition were
6 here. There is approximately sixteen minutes left. So -
7 that is four minutes and forty seconds each. Mr.
8 McGuinty.

9 Mr. McGuinty: Yes sir. You said there is one
10 such store in Toronto?

11 Mr. Markin: Yes.

12 Mr. McGuinty: Are there other such stores in
13 other parts of the province?

14 Mr. Markin: No. But right now we are looking
15 to maybe getting permission for another store.

16 Mr. McGuinty: Sure. Tell me something about
17 the product itself. Is this used for religious
18 observance?

19 Mr. Markin: Yes. It is used on the Passover,
20 we have an obligation to drink four cups of wine at
21 the meals.

22 Mr. McGuinty: Yes.

23 Mr. Markin: Also on Saturdays we have to make
24 a ritual blessing which is wine before the meals and we
25 conclude our Sabbath with wine and the same thing on
certain holidays.

Mr. McGuinty: So it is really rather
fundamentally different than say your ordinary wine
retail outlets?

Mr. Markin: Yes. The wine itself is the same
but its use is totally different.

Mr. McGuinty: Surely. If somebody in Kitchener
wanted to buy this product, is there any place for them



1
2
3 to buy it there?

4 Mr. Markin: No. It is not available, except
5 sometimes the L.C.B.O. stores sometimes carry our
6 products. But I do not know if they will have it in
7 Kitchener.

8 Mr. McGuinty: Do you have people coming from
9 various parts of Ontario?

10 Mr. Markin: Yes, from London and all over the
11 province.

12 Mr. McGuinty: Thank you very much, sir.

13 Mr. Chairman: Mr. Kanter?

14 Mr. Kanter: If I may continue the line of
15 questioning of Mr. McGuinty to some extent.

16 I want to say initially that the Sunday shopping
17 issue is a complex one and the liquor laws in this
18 province are complex. When you put the two together you
19 get a really complex question that arises.

20 Further from Mr. McGuinty's question, perhaps
21 he left the impression that kosher wine is used only
22 for ceremonial or ritual purposes and could you perhaps
23 elaborate?

24 Mr. Markin: Well, kosher wine is used like
25 any other wine, in various respects. Some people enjoy
drinking some wine with any meal, they serve it at
weddings and at banquets, but the basic use of the wine
on a regular basis would be for ritual purposes on the
Sabbath and on the holidays which come fairly regularly.

Mr. Kanter: Just speaking a little more
generally, I don't know if you are aware of the
proposed change in the legislation for stores, retail
stores, not necessarily liquor establishments, where
previously if they were closed on Saturday, there were



1
2
3 restrictions if they opened on Sunday. We are removing
4 those restrictions, if you are closed any other day of
5 the week for religious reasons, and which I think will
6 assist some merchants of Moslem, Hindu, or other
7 persuasions.

8 You made the point, for example, that in your
9 case, since you were a single store, you would be happy
10 if there were a requirement of all stores in the chain
11 followed the same pattern?

12 Mr. Markin: Yes.

13 Mr. Kanter: An additional complicating factor,
14 however, which was addressed to us by a representative
15 who appeared recently from Sunybrook Farms, they are a
16 chain, they have one of their stores in predominantly
17 a Jewish area, serving a Jewish clientele, and wish to
18 be closed on Saturday and open Sunday. The rest of
19 the stores in their chain do not, they want to be open
20 Saturday and closed Sunday. So that you can see some
21 of the complexity that we are dealing with here.

22 Mr. Markin: Yes. The point I was making was
23 with respect to wine stores; in other words, I can
24 understand in other areas of retail it is a different
25 question, but since there is the added alcohol question,
and then there is the fear, if you let this wine store
open on Sunday, then every wine will open on Sunday.
But I do not think they will give up their Friday nights
and Saturdays for Sundays. Even if there is some fear
that some chain might want to keep some of their stores
open on Saturday and some on Sunday, with respect to
alcohol; in other words, there should be a recognition
of kosher wine, so if you have kosher wine, if your wine
is all kosher or it is not and, if it is not, you cannot.

That is basically my submission in respect to
that, and I can understand the complications in respect
to other types of merchandise.

Mr. Kanter: Mr. Markin, I am somewhat familiar



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

with the problem and I hope not overly familiar

Mr. Markin: I hope you are overly familiar with it

Mr. Kantor: I think we should pursue your particular situation, I think it is a particular and perhaps unique one. We do have Legislative Council here and perhaps we can discuss your particular situation in a little more detail.

I think you have brought one of the most complicated problems -- that has faced this Committee -- to us this morning, and even after eight weeks of hearings we still hear new situations that arise in this very diverse province and I thank you for coming before us.

Mr. Chairman: Mrs. Cunningham. Four minutes and forty seconds, Mrs. Cunningham.

Mrs. Cunningham: Thank you, Mr. Chairman.

Welcome to the Committee, Mr. Markin. I am not certain that this the Committee you should be before with your question, but I think it is a good one. There is certainly some inclination and it may well be something that Bill 113 should be considering as part of the whole picture.

I disagreed with you, though, when you talked about Section 2.

You have given, as you say, your layman's interpretation of Section 2 and I will give you mine.

I think probably your concern, unless you can prove the point, that you need recognition of kosher wines somewhere, and I think that is the issue, is it not?

Mr. Markin: Yes.



1
2
3 Mrs. Cunningham: I think that discussion will
4 probably have to take place with another Ministry, another
5 time, because I do not even see how we can get into
6 those discussions, given that Section 2 is still part
7 of Bill 113, which says that unless you can get special
8 recognition for kosher wines, which I think is the
9 issue?

10 Mr. Markin: What I am suggesting is that the
11 existing Retail Business Holidays Act does in fact govern
12 the sale of wine, because there is a specific exemption
13 in Section 5 that says Section 2 does not apply if it you
14 have received an L.C.B.O. licence which governs
15 restaurants and banquets and things of that nature.

16 Mrs. Cunningham: Yes.

17 Mr. Markin: If Section 2 of the Retail Business
18 Holidays Act did not apply to alcohol, that exemption is
19 not appropriate, because this Act has nothing to do with
20 that.

21 It is the fact that Section 5 provides an
22 exemption to Section 2, indicates that with respect to
23 all other alcoholic products, Section 2 does apply and
24 Section 2 is governed by Section 4, which says there
25 is an exemption if you are closed on Saturdays. So my
submission is that the Retail Business Holidays Act
governs this and it is on your agenda, because this is
the Act that you are going to amend.

Mrs. Cunningham: Okay. I just stated before,
I do not agree with your interpretation, but I can still
understand your request and I think it is legitimate.
Where it fits, I don't know.

Mr. Chairman: He is a lawyer and he under-
stands.

Mrs. Cunningham: Oh, well, maybe you should
come down and work in this government?

Mr. Markin: This is the first opportunity I



1
2
3 have had.

4 Mrs. Cunningham: We need all the help we can
get, I can tell you, on this one.

5 Truly, we will take to our legal advisors in
6 this particular party, because I think your request is
a legitimate one, I have to tell you that. Where it
7 fits, I don't know, and I think, Mr. Kantor, in all
fairness, we kid back and forth, but he made the
8 statement that he was going to take it to our legal
counsel, I agree with him, and I hope he will bring back
9 some interpretation of your request for us to share,
to be dealt with clause by clause. This is just one more
10 special request that we have had, that have been showing
up basically from the very beginning, but we have had
11 three or four really complicated ones in the last couple
of weeks.

12 So I thank you for bringing it to our attention.
13 You have to start somewhere and it is probably a long
battle for you, but Bill 113 has been the beginning for
14 a lot of people and all kinds of things have come out
in this series of deliberations. So thank you.

15 Mr. Markin: I just hope that does not mean the
16 operation was a success but the patient died.

17 Mrs. Cunningham: No, not as long as you have
got lots of stamina. That is what it takes around this
18 place.

19 Mr. Chairman: Thank you, Mrs. Cunningham.
Thank you, Mr. Markin, very much. We appreciate you
20 coming forward. It is a rather interesting issue and
we will have to study it.

21 Mr. Markin: Thank you Mr. Chairman, and thank
22 you, Members of the Committee.

23 Mr. Chairman: The next delegation is the
City of Oshawa, Mayor Pilkey. Perhaps you would be good
24
25



1
2
3 enough to come forward Your Worship and have a seat.
4 I notice there are other people coming along with you,
5 so before you start your presentation maybe you could
6 identify those people for the purposes of Hansard. You
7 have thirty minutes which is your time, we are here to
8 listen to you, and if by any chance you choose not to
9 use the full thirty minutes, time is left over, as I
say, that is not necessary, then questions will be asked
and I will divide the time equally amongst the three
parties or in this case this morning due to certain
circumstances, between two parties, which will be two-
thirds of the time I would ordinarily divide. So if
you would like to start, we are ready to hear.

10 Mayor Pilkey: Thank you very much, Mr.
11 Chairman.

12 I have with me two additional members of City
13 Council and Regional Council, from the Regional Municipality
of Durham, who will also speak to the Committee, Alderman
Brian Nicholson, on my right, and Alderman Linda Dionne
on my left.

14 Ladies and gentlemen, at a City of Oshawa
15 Council meeting on June 6th, 1988, the issue of Sunday
shopping was discussed at length.

16 It was concluded, given the serious concerns
17 regarding both the manner in which this issue is being
18 addressed by the provincial government and the nature of
the issue itself, that a delegation be sent to address
this Committee and personally state our concerns about
19 and our opposition to the proposed legislation.

20 I would as well to the, this attention that
21 while they are not speaking today, also forming part of
our delegation this morning, and I will introduce them
22 to you, we have Mrs. Doreen Smith, who is the Director
of the Oshawa Chamber of Commerce, and I would just like
23 to indicate to you that the Oshawa Chamber did do a
survey of its members and received a rather large response
and Mrs. Smith indicates to me that fully seventy-five
24
25



1
2
3 per cent of all members of the Chambers of Commerce
4 responding, were opposed to Sunday shopping legislation.

5 Accompanying Mrs. Smith this morning is Mrs.
6 Nancy Elsome, who is the Director of the Oshawa Downtown
7 Board of Management, representing the retailers and
8 financial institutions housed there. They similarly did
9 a survey of their membership and she advises me of those
10 responding the response was one hundred per cent and
11 could not find anyone in favour of Sunday shopping.

12 So we are pleased to bring those individuals
13 with us this morning to make you aware of their
14 particular findings.

15 Now, inasmuch as numerous delegations have
16 already stated their objections to the proposed Sunday
17 shopping legislation, many of the comments which will
18 be made, undoubtedly have been made in some form by
19 previous speakers. However, given the serious
20 reservation and heartfelt concerns that we have, we felt
21 it was necessary to restate them and in person.

22 First of all, on the question of municipal
23 autonomy, on July 5th, 1988, the AMO issued a report
24 opposing the Ontario government's proposal to amend the
25 legislation, Bill 113, which would delegate the Sunday
shopping issue as an option to Municipal Councils. AMO,
within the report, argues that the province's proposed
amendment to Bill 113 would in effect supersede municipal
autonomy and that the local option, as proposed by the
legislation, will in fact translate to a non-option for
many municipalities.

26 The reasoning behind AMO's argument is that
27 should one Municipal Council decide to expand Sunday
28 shopping within its territorial jurisdiction, this
29 decision will undoubtedly have a compelling influence
30 upon neighbouring municipalities to reciprocate, that
31 in fact eliminating the option. In addition, a non-
32 option to Sunday shopping for municipalities also implies
33 an indirect deterioration of municipal decision-making

24

25

R9:jl



1
2
3 autonomy.

4 Also in light of the potential impact of
5 Sunday shopping, we really do not feel that we as
6 Municipal Councils or members of the Association, were
7 very adequately canvassed with respect to this legislation.

8 I know you have had representations by a
9 tremendous number of people all across this province,
10 and I recently attended, as a large urban section member,
11 the annual conference at the Royal York, where hundreds
12 of Mayors and Councillors, et cetera, overwhelmingly
13 expressed their concern with respect to this Bill and
14 perhaps we ought to talk a little bit about that later.

15 We also had concern about additional municipal
16 services and costs that would be required as a result of
17 this legislation.

18 While the Government's amendment to the Bill
19 will not only make Sunday shopping a non-option for
20 Municipal Council's, it will also, as a consequence,
21 induce an increase in the current level of municipal
22 services. Essentially, by extending the work well to
23 include Sunday, municipalities will most certainly be
24 compelled to increase certain services such as municipal
25 daycare, fire protection, transportation and waste
management services.

Subsequently, such additional services will
necessarily translate to higher municipal costs, and
coupled with the restriction of maintaining a balanced
budget, municipalities will have no alternative but to
finance these additional costs through higher user fees
and property taxes.

And, of course, if there were to be offsetting
grants by the province to the municipalities to cover
these costs, we would be very interested to hear about
those.

Throughout the year, many proponents of Sunday



1
2
3 shopping have argued that the expansion of the work week,
4 from six to seven days, will necessarily lead to a
5 greater expansion of business activity and, as a result,
6 act as a stimulant to economic growth. While on the
7 surface this argument may seem plausible, in reality it
8 has a number of serious theoretical and empirical
9 drawbacks.

10
11 On a theoretical level, there is no reason to
12 believe that Sunday shopping will act as a stimulant
13 to economic growth. A more plausible explanation is
14 that as a result of most people's fixed spending income,
15 the introduction of Sunday shopping will only act to
16 extend and not expand people's consumption patterns.

17
18 On an empirical level, the Clayton Research
19 Associates Limited of Toronto have concluded in a recent
20 study that where Sunday shopping is introduced the
21 sales jump up fifteen per cent initially, but then those
22 figures sink back rather dramatically after the novelty
23 of Sunday shopping wears off.

24
25 In terms of the quality of life, one of the
more serious concerns that all citizens and government
officials should have about Sunday shopping is its
potential impact on the quality of life in Ontario.
As responsible and concerned citizens, we should be
alarmed and seriously concerned with the problems facing
our traditional family structure and the slow decay of
our social fabric. The high incidence of divorce,
runaway children and single parents with latch key
children are but the tip of the iceberg. Sunday shopping,
if implemented, by implicitly forcing parents to work
an additional day and, thereby, not allowing for a common
day of rest for the entire family can only serve to add
to the current problems of our family structure, erode
society's values and ultimately, in my view, deter our
quality of life. It should, theoretically and
practically, be the duty and responsibility of governments
to try to maintain and enhance the basic fabric of our
society and not to try to weaken it, and we think this
legislation has a possibility of weakening it.



1
2
3 In terms of the protection of workers, as a
4 result of the many potential problems that Sunday
5 shopping represents to Ontario's retail labour force,
6 the Government of Ontario has proposed an additional
7 amendment to Bill 114, the Employment Standard Act,
in an attempt to further enhance retail workers' rights.
More specifically, the amendment to Bill 114 will attempt
to establish for all retail workers, the right to refuse
Sunday work which is, in their view, unreasonable.

8 While in theory this legislation may appear
9 to be plausible, the reality of the situation indicates
10 that just as the Sunday shopping option is no option for
11 Municipal Council's, this Sunday work option also
12 translates to a non-option for retail workers. For
13 example, should one independent retail worker or owner
14 decide to open for business on Sundays, this will have
15 a compelling influence on competing retailers to also
open on Sundays, thus in fact, essentially eliminating
the work option for those who are self-employed. In
addition to the work option becoming a non-option for
those self-employed, all other employees will undoubtedly
experience pressure to work Sunday shifts. The
province's amendment to Bill 114 will only encourage
problems with labour-management relations in the retail
sector.

16 Price increases.

17 One of the more interesting and damaging
18 aspects of Sunday shopping is the potential impact
19 it may have on the economy's inflation rate and
cost of living. As a result of Sunday shopping, prices
in Ontario have the potential to rise for two reasons.

20 Firstly, as discussed earlier, Sunday shopping
21 will, if implemented, induce municipal services to rise
22 and as a result of this, municipalities will have no
option but to raise user fees and property taxes.
23 Subsequently, higher property taxes will inevitably
be passed on by landlords to their tenants, residential
as well as commercial, through higher rents, and we believe



1
2
3 that these increased costs are not welcomed by the
ratepayers we represent.

4 Secondly, Sunday shopping will require
5 retailers to increase their labour and overhead costs,
6 and with no guarantee of additional sales over the long
run, these additional costs will most certainly be
passed on to the consumer through higher prices.

7 We question as well, the situation and the
8 claim of convenience.

9 Contrary to some opinion, Sunday shopping
10 will not necessarily mean more convenience for all
consumers. An example of this point is in the Province
11 of Alberta, Sunday shopping has been in existence there
I believe since 1982.

12 Stores in Alberta, as a result of Sunday
shopping, have, over time, come to close earlier during
13 the regular work days, so that they can afford the
extra salaries for their Sunday openings. As a result
14 of the earlier closing hours of retailers during work
days, people in Alberta who work from 9:00 a.m. to
15 5:00 p.m. are essentially forced to shop on weekends.
Therefore, for the majority of workers who work the
16 nine to five shift, Sunday shopping does not necessarily
imply more convenience.

17 In terms of religious freedoms, many supporters
18 of Sunday shopping have argued that the current law
restricting Sunday shopping denies the religious
19 freedoms of citizens whose Sabbath is observed on
Saturday. In light of this argument, on December 18th,
20 1986, the Supreme Court of Canada in a six-one vote,
rules in favour of the Lord's Day Act and Chief Justice
21 Brian Dickson wrote in the majority report that:

22 "The infringement is not
23 disproportionate to the
legislative objective. A
24 serious effort has been made to
25



1
2
3 accommodate the freedom of
4 religion of Saturday observers
5 insofar as that is possible
6 without undue damage to the
7 scope and quality of the
8 pause day objective."

9 Finally, in terms of public support, the
10 reason we are here discussing Sunday shopping is to
11 voice the views and concerns of our constituents and
12 communities.

13 Contrary to what we understand Mr. Kantor
14 has reportedly said in the Toronto Star on August 27th,
15 1988, about not hearing from real people as yet, I
16 believe, as Mayor, I represent real people. I believe
17 the Association of Municipalities of Ontario represents
18 real people. I believe the retailers, the Chambers of
19 Commerce that you have heard from, represent real people.
20 I believe that you as Members of the Legislature
21 represent real people.

22 Having said that, I cannot understand why the
23 Government of Ontario cannot sit down with representatives
24 of the retail community, representatives of the tourist
25 sector and representatives of the Association of
Municipalities of Ontario, which we represent, in order
to attempt to resolve the matter which appears to have
caused a great deal of consternation throughout the
province.

I think it is possible, in consultation with
these groups I have mentioned, to work out the problem
that you have faced with respect to the tourism situation,
and we urge you to call upon us and those people that
I mentioned, to try to do exactly that, work out a
solution. I cannot believe that the Committee, having
gone through the many centres of Ontario that they
have, the tremendous number of delegations and
representations that they have heard, that there is not
a rather clear message that there is concern throughout
this province and that we should get together and try



1
2
3 to resolve that.

4 We have some difficulty with some of the
5 statements by other Ministers, who have attempted to
6 perhaps neuter this Committee in some respects, but we
7 place our trust in you, that you will take into account
8 these concerns and assist us to bring forward a more
9 favourable situation for the people that we represent.

10 I thank you, and I would now direct your
11 attention to Alderman Brian Nicholson.

12 Alderman Brian Nicholson: Thank you, Mr.
13 Mayor.

14 Mr. Chairman and Members of the Administration
15 of Justice Committee of the Ontario Legislature, in the
16 Spring of this year our Member of Parliament from Oshawa
17 presented a petition or petition from our residents to
18 the Legislature in the House, of over ten thousand
19 signatures, one of the largest petitions you received,
20 and that petition came from one community in this
21 province.

22 I have brought with me, just to show you the
23 depth of this petition, a copy of the petition. It is
24 quite large. It takes two full books to complete all
25 the signatures and it represents a large section of our
community of Oshawa. We think it reflects very clearly
the wishes of the people of the Province of Ontario.

I would like at this time just to reiterate
some of the groups in our community that have
consistently opposed this legislation and who have
taken part in our petition process.

We have over eighty churches and church
congregations in our community. Fully seventy-six of
them responded with large petitions, some with over a
thousand names from the congregations. They represent
virtually every possible denomination in our community.
They range from Anglicans to Baptists to United to the



1
2
3 Polish National Catholic Church, the Ukranian Catholics,
4 the Ukanian Orthodox Church, every major constituency
5 in the church community, including the Roman Catholics --
6 thank you Ma'am everybody is saying that this is
7 a bad law. It is badly drawn. It splits communities
8 along religious lines and it should not be tolerated.

9
10 Beyond the religious community, we have
11 also received overwhelming support from the retail,
12 commercial and labour communities.

13
14 As you heard earlier, a retail survey was done
15 by two respected organizations in our community, and
16 have shown that there is very little support for the
17 proposed law in our community. I think that reflects
18 the province as a whole.

19
20 I have been privy to watch this Committee many
21 times on television, to follow the reports, and I am
22 somewhat chagrined to hear that we are still hearing
23 from delegations who are opposing you virtually ninety
24 to ninety-five per cent, and we are still talking about
25 ramming this law through.

As a Council we reflect our constituents, we
reflect the wishes of our community, and we feel that
the Ontario Legislature should also reflect the wishes
of our community and the province as a whole.

I know you have sat through eight weeks of
hearing and you have sat through debates in the
Legislature, but I ask you to remember one clear point
and it is very simple: The present government did not
campaign on this issue.

I have heard very clearly, members of this
government say that in debate, that they did not
campaign on this issue.

In the one election where this issue was put
to the voters of this province, they sent a very clear
message back to this government -- and I am sure the



1
2
3 message of Mrs. Dianne Cunningham, who is sitting here
4 as a representative from that community we urge
5 you to stop the process, to stop the process of division
6 in this province, to go back and rethink your processes
7 and as the Mayor said quite clearly, come up with
8 alternatives that meet the needs of our province.

9
10 Division and splitting up communities is not
11 the answer.

12
13 I urge you strongly to think on various
14 groups you have heard in the last eight weeks, because
15 no amount of political will, no amount will change
16 what you have heard. The Province of Ontario is telling
17 you no, we do not want this law.

18
19 Mayor Pilkey, as I mentioned earlier, also in
20 my delegation is Alderman Linda Dionne, who is a Member
21 of the Oshawa City Council and a member of the Durham
22 Regionals Council.

23
24 Alderman Linda Dionne: Thank you. Mr. Chairman
25 and Members of the Committee who are here today, I wish
to make the following points to the Committee, and first
of all, thank you for giving us the opportunity to
address you today.

Sunday shopping has been a major issue of
discussion and of contention within the City of Oshawa
ever since the announcement was made that such a
possibility existed within our province. We appreciate
the fact that you are holding these hearings and hope
that what we say will be taken into consideration and
will be given serious discussion.

The first issue I would like to deal with is
that which we believe is not a Sunday shopping issue,
but a Sunday working issue. In my particular case,
from the people I have spoken to, I have come to
understand that the retail sector employs mainly women,
mostly young women, who have young families and who are
not in a unionized position. They do not receive the



1
2
3 benefits afforded many unionized positions that would
4 work on a Sunday. Therefore they do not stand to
5 benefit from the Sunday shopping issue in terms of
6 pay, or otherwise. They end up with a Sunday working
7 perspective, because it means that Sunday they are
8 working and they're not with their families. If that
9 is the case, there will be no family day left for them,
10 as we open the gates to Sunday shopping.

11
12 So really the issue is not in essence whether
13 we shop on Sunday, because we believe that there are
14 truly enough opportunities to shop on Sunday, but the
15 issue is Sunday working for many of these people.

16
17 Since they are not an organized group, I believe
18 that someone must speak on their behalf and I hope that
19 you will take into consideration the concern that I have
20 for this particular sector of the population.

21
22 The second issue that I would like to point
23 out, is that the spending habits of persons will not
24 necessarily be greatly reflected by a Sunday shopping
25 open bylaw within our municipality. The reality is that
the majority of persons who make a certain amount of
money, will have that same amount of money to spend in
six days or seven days. They will just simply have to
spread it over seven days, and I do not believe that
this will necessarily create more of an influx into
the economy or more dollars, persons will still, as I
have said, be making the same amount of money throughout
the year.

19
20 Their spending habits may change, but I do
21 not believe the benefits would outweigh the detriments
22 in the case of seven days of shopping versus six days.

23
24 It has been brought to my attention, through
25 my constituents who are parents, that the opening of
malls over the entire weekend, is a major problem for
some people.

Many parents allow their children to attend



1
2
3 at shopping malls during the weekend for the purposes
4 of purchasing what they may need for school, and also
5 for a source of entertainment because many of our
6 theatres are located in the shopping malls and in
7 Oshawa the shopping mall that we have, the Oshawa Centre,
8 will soon be expanding with a one hundred million dollar
9 expansion to have eight cinemas versus four cinemas at
10 the current time.

11
12 The parental concern expressed to me is that
13 the congregating place will become the Oshawa Centre for
14 the entire weekend and what we potentially could be
15 doing is taking away from the parents the responsibility
16 of knowing where their children are.

17
18 Also the parental responsibility in involving
19 their children in other family activities on a Sunday
20 for those who would so choose, may take away from those
21 parents that extra impetus to do those types of
22 activities with their children, and I am not sure that
23 this is particularly a benefit to our community.

24
25 In some cases you have, in fact, taken away
the parents' responsibility to know where their children
are and what they are doing and if you believe that,
as a province, we have a responsibility to the retail
sector and our constituents, it is my contention that
we have just as much responsibility to the protection of
the way of life of the family as we know it, even though
at the present time the whole picture of family is
changing in the world and indeed within our own country.

Within the City of Oshawa, which we consider
to be the centre of the Region of Durham, we have the
Oshawa Centre as I have noted before, which has one
hundred and seventy stores, and it is the major retailer
of the City and it is planning a major expansion and
will probably increase to double the size.

We, as a City, have a mandate from our people,
and as indicated by Alderman Nicholson's petition, he has
pointed this out to you, and a petition which I might



1
2
3 point out to you, was greatly added to by the members of
4 my church community, to a great degree, and they have
5 made it very clear to me, they are my voters, and I will
6 tell you, Mr. Kanter, they are really very real.

7 We may be forced, if, for example, the Town
8 of Pickering and our Region is forced to open because of
9 its proximity to the Metropolitan Toronto area, we may
10 be forced as a municipality to re-evaluate the position.

11 We are sure that since our major retailer is
12 aware of that possibility, they have yet taken the
13 chance that Oshawa will do the right thing in protecting
14 the interests of its citizens.

15 We, as a City, believe that there is ample
16 opportunity for shopping on a Sunday for those who have
17 need of it.

18 We are considered a shift city, if you will
19 pardon the expression, due to the employment of over
20 twenty-two thousand persons at General Motors as our
21 major employer within the region.

22 We believe in a common pause day and we do not
23 wish to become more like the United States where there
24 is twenty-four everything if one wants it.

25 If a change in the definition to the tourism
area is necessary, then I believe we should negotiate
that and perhaps we should fit into that definition
that which is not currently available to those who have
expressed a desire for a change to the shopping provisions
for Sundays.

In the City of Oshawa all of the necessities
can be obtained on a Sunday, in many areas, to meet
all of the needs of the City.

We do not believe that an open shopping area
throughout the entire City is necessary or desirable.

It is my believe that it is not too late for



1
2
3 this government to change its stand. It takes a lot
4 of courage for a government to admit that a chosen path
5 taken is the wrong one. I believe that the current
6 government has taken the wrong path and has read the
7 direction of the people incorrectly on the issue of
8 Sunday shopping.

9 We from the City of Oshawa encourage you to
10 change the position as stated by the Solicitor General,
11 even before these hearings began, and choose the decision
12 which makes us distinctly different as Canadians and
13 Ontarions, and continue with what we currently have as
14 legislation, continuing as a province to monitor what
15 is happening through that legislation, meet the needs
16 when necessary and negotiate those changes where they
17 may be desirable.

18 Now, from a personal perspective, anybody will
19 tell you in the City of Oshawa, those that know me, I
20 am definitely one of those persons who was born to
21 shop. A lot of people will attest to that. I have
22 five children. If I, with a full-time job, with a
23 husband who is a professional that works full-time and
24 is very busy in his employment, can manage to shop in
25 six days, I believe everyone else can as well.

We thank you for your attention and hope that
our submission will be taken seriously, as we have a
lot of people in our community who are very serious
about this issue. I thank you for your kind attention.

Mayor Pilkey: Thank you, Mr. Chairman. That
completes our representation.

Mr. Chairman: There is four minutes left,
I think, and contrary to what we did before, we will
divide it into two minutes for each caucus, Mr. Ballinger
and Mrs. Cunningham.

Mr. Ballinger: Here I am, Mr. Chairman. Thank
you. Good morning.

Mayor Pilkey: Good morning.



1
2
3 Mr. Ballinger: It is always a pleasure to have
4 the Mayor of Oshawa with us. I sat for a number of years
5 on Regional Council, although I did not have the pleasure
6 of sitting with Linda or with Brian.

7 I noticed with interest, that all three
8 representations relate to the issue of wide open Sunday
9 shopping. I think if there is any one thing that we
10 have done in the Ontario Government and not done very
11 effectively, is not get out there to the average
12 citizen, what this Bill is all about.

13 This Bill is not about wide open Sunday shopping
14 at all. The Opposition have very effectively exploited
15 it to sort of make the point, to raise fear in the
16 average citizen out there.

17 I somewhat liken this process, Your Worship,
18 to -- and I can recall years ago, when you were Chairing
19 the planning meetings about General Motors in South
20 Oshawa, when the whole community came out in opposition
21 to the rezoning application when in fact what you were
22 doing was making a decision that you believed was in
23 the best interests of the community. I happen to believe
24 that here.

25 I note with interest that you are representing
the City of Oshawa, but the Bill itself is at the upper
tier level. So the City of Oshawa will not have the
opportunity to make that decision, whether or not
Oshawa wants to be open or closed. As you know, that
decision is made at the Regional level.

So let me ask you this and it is a question.
I have been trying to ask especially for Regional
municipalities and member municipalities within Regions:
Who is going to support -- if what you say is
representative of your community, which you really do
hold the balance of power on Regional Council, who is
going to be the first one to subtle wide open Sunday
shopping within your Region?

Mayor Pilkey: First of all, before I respond



1
2
3 to the question, it is a pleasure to see you again this
4 morning, Bill. As you say, we had the pleasure of
5 serving for quite sometime, and in those situations that
6 you agreed with me, I appreciate that; and for those that
7 you didn't, I hope that you corrected them.

8
9 Mrs. Margaret Marland: Ever hopeful

10
11 Mayor Pilkey: Let me answer that very quickly.

12 The question of upper tier municipality, the
13 Regional Municipality, being given the power to make the
14 decision, I am pleased to advise you that on May 4th,
15 this year, on a motion by Councillors Nicolson and
16 Mitchell.

17
18 Mr. Ballinger: I'm aware of it.

19
20 Mayor Pilkey: "Be it resolved that the
21 Region of Durham does not support the extension of
22 Sunday retail shopping in the Region of Durham," and on
23 a recorded vote it passed with the exception of two
24 people. Overwhelming support. So that the Region's
25 people are against it too.

Mr. Ballinger: Right.

Mayor Pilkey: Now, we as you mentioned, are
the largest number of voting block at the Region, is
the City of Oshawa, but we are pleased that everyone
else, with the exception of two people -- and the two
that did not, were from Oshawa, by the way. So, nine
out of our eleven.

Mr. Ballinger: Which means that unanimously
from the other seven municipalities, they are all on
board.

Mayor Pilkey: Right.

And lastly, Mr. Chairman, if I may, our concern
is not about the Region. What happens if the Scarborough



1
2
3 Town Centre opens?

4 Mr. Ballinger: Metro makes that decision.
Not Scarborough.

5 Mayor Pilkey: Now we are back to the domino
6 effect. Pickering is open and if Pickering is open, then
Oshawa is open and

7 Mr. Ballinger: And all the decisions are made
8 at the upper tier and they are all on record as opposed,
all the regions in Metro.

9 Mr. Chairman: There is a great deal of
10 platitude in the question and the answer. Mrs. Cunningham.

11 Mrs. Cunningham: Thank you, Mr. Chairman.

12 It is a pleasure to meet Your Worship and
Council Members. I would like to thank you for a most
13 articulate brief and for bringing Mrs. Smith and Mrs.
Elsome with you, because they are very important to this
14 process as well. We do consider you to be the real
people, and the real people in London did vote and I thank
15 you for your reference, and I am happy to be here.

16 I am not please with the process and you should
know that two underlying factors that you brought to our
17 attention today, were two I do not think this government
have thought about at all.

18 Yesterday, as I was debating -- and well, if
19 you really want to know, I think division and splitting
up of the community is a real issue for municipalities.

20 That is the first one.

21 The second one, that the government has not
22 consider at all, Mr. Ballinger, since you are the one
with the municipal background, as I am, is the cost.
23 This is the two you have underlined, and I do not think
this government has thought about it at all.

24

25



1
2
3 First of all, Mr. Kantor talked about the
4 public agenda of this government and the real need to
5 sort of deal with this legislation quickly and, as I
6 call it, ramming it through. It is because they have
7 more important things on their public agenda than,
8 quickly frankly, the quality of life, an issue that this
9 is all about.

10 Instead of dealing with it, do you know what
11 they are going to do? They are going to give it to you.
12 You can check with all the store owners and all the big
13 mall owners, for your public agenda for the next few weeks
14 and months and years, and you can split your community,
15 as you know we are across this province.

16 Just talking about something as important as
17 group homes. Do you know what kind of things happen?
18 Most of us cannot believe what we hear.

19 Now we are going to get the little shop owner
20 and we are going to get the big businessman and we are
21 going to get the pressure, and that will be your public
22 agenda, because this government chooses not to deal with
23 it. It is as simple as that.

24 Never mind the final decision, which probably
25 for the first few years will be exactly as Mr. Ballinger
said. They will say No at the Regional level, but you
will still have that public agenda, and I am sure you
don't have more important things to talk about than
that

So the division and the splitting up of the
community, which is what this Bill is all about, and
really, the public agenda now, will be the lack of
interest in this government to list to the people.

We made a motion yesterday, where we wanted to
look at tourism, and I know AMO has agreed, since the
Solicitor General said that was a really big problem,
enforcement and a definition of tourism; and this
government would not even allow the people who have said



1
2
3 they would help us, including AMO and KHAOS, they are
4 not interested in giving them thirty minutes. Clause
by clause, looking forward to the comments, that's it.

5 Mr. Chairman: Thank you, Mrs. Cunningham.

6 Mrs. Cunningham: I don't know what else to
7 say. I'm sorry there was not time for me to ask a
question, but I wanted to underline for you what this
is all about.

8 Mr. Chairman: Thank you, Mrs. Cunningham.
9 Thank you very much, Mr. Mayor, and Aldermen. We
appreciate you coming here from Oshawa.

10 Mayor Pilkey: Mr. Chairman, I wondered if I
11 may have thirty seconds just to respond to that?

12 Mr. Chairman: Mr. Mayor, I would be happy to
13 do that, except I think if we did that now, we would
have to do it for everybody.

14 Mrs. Cunningham: Well, if it is unanimous
consent?

15 Mr. Chairman: Well, with unanimous consent
16 they can do anything they like. They can even get rid
of me. Would you like to give unanimous consent to that?
17 Do we have unanimous consent? All right.

18 Mayor Pilkey: Very briefly, Mr. Chairman, I
19 respect your difficulties over these many months and I
just wanted to say something that is not prepared; okay?

20 Mr. Chairman: Okay.

21 Mayor Pilkey: Mr. Kantor, yourself and others
22 have had a municipal background and have served as public
23 officers and so on, but this strikes me, as someone who
has been involved in an elected office for a couple of
24 decades now, albeit at local level, that you have got
to be slow to not understand, when you get the reaction
25



1
2
3 that you do, not just from the Howard Moscovs of this
4 world, okay? But when you start getting a reaction that
5 you get across the whole province, when you as a
6 government have to go all across this province to have
7 these hearings, when you get the number of submissions
8 that you do from as many diverse groups that you have
9 got, I mean as an elected person, you do not have to
10 be too swift to understand that there is some difficulty
11 with this legislation.

12 I know as well as you know, because we are a
13 similar business, there is a problem. You can count
14 numbers and you can count heads and all that

15 Mr. Chairman: Thank you, Mr. Mayor.

16 Mayor Pilkey: Mr. Chairman, I appreciate that
17 opportunity and I'm sorry if I have offended in any way.
18 I simply call on you as people who are also elected, to
19 give the thing a good review and give your comments to
20 Joan Smith and others, because you really have heard
21 from a significant enough portion of the population,
22 that it requires, it really does require careful
23 consideration.

24 Mr. Chairman: Thank you very much. Mr.
25 Ballinger, we have other delegations waiting and I would
like to get to them.

Thank you very much for attending. We
appreciate your comments, Your Worship.

The next delegation is the WestClair Business
Improvement Area, Connie Lamanna, and Lily Lash. I
understand that was their name and they are now
CorsoItaliante; is that correct? So if you ladies would
like to have a seat. I understand we have two written --
Mrs. Cunningham -- we have two written briefs, is
that correct? All right. You have thirty minutes.
Perhaps you would identify yourselves before you make
your presentation. Thirty minutes is your time and we
are here to listen to you. If you choose to use all of



1
2
3 that time, that is your prerogative, and if there is any
4 time left over, I will divide it, at least I will divide
5 two-thirds of it anyway, amongst the members that are
6 here. The Official Opposition members are not here, one
7 of them is sick and one will be coming later on this
8 afternoon.

9 Mrs. Marland: I should make it clear to my
10 colleague, it is just that I am running a temperature,
11 and I thought it was nice of me to sit apart from her.

12 Mr. Chairman: I am glad you cleared that up,
13 Mrs. Marland. So, if you would like to proceed, we
14 are ready to listen to you.

15 Mrs. Lash: Mr. Chairman and ladies and
16 gentlemen of the Committee, for the past many weeks you
17 have listened to countless speeches and watched a blur
18 of people asking you to change your minds about the
19 Sunday shopping issue.

20 Thousands of words have been spoken, telling
21 you that by permitting Sunday shopping you will be
22 forever changing the lives of countless people.

23 We hope our words not in vane. We do not
24 want ours to fall on deaf ears.

25 If you vote for Sunday shopping, you will
forever be known as the government that abandoned the
needs of the small business people in favour of the multi-
nationals.

If you decide not to heed our words, history
will remember this government for having callously
voted in favour of the large conglomerates, while
completely ignoring the needs and the wishes of the
working class, the people who make up this Province.

If you decide to permit patches of businesses
to open on a Sunday, you are deliberately neglecting an
entire group of people. People who must work for a



1
2
3 living. People who cannot afford to say to their
4 employer, Sorry, I will not work on Sunday, I have a
family to share my life with.

5 We want this government to preserve and enforce
6 the existing Sunday closing laws. This is why we are
here. This is why we wish to be heard. This is why we
want to be listened to.

7 Bit by bit stores have begun to open their
8 doors on Sundays as they choose to deliberately ignore
and defy the existing law.

9 What is our Solicitor General doing about it?
10 Instead of taking a stand on the issue she is taking
the easy way out, by simply ignoring the law breakers.

11 The law breakers are not being fined or
12 punished in any way.

13 This government at the present time absolutely
14 refuses to enforce the existing laws, which were set up
to protect the common people.

15 This government is forcing their views upon
deceptable citizens.

16 This government is unwilling to take a stand
17 themselves and is attempting to let the municipalities
do the job for them. This government has obviously
18 made a decision. They have decided to pass the buck.
That, ladies and gentlemen, is a cowardly thing for
19 the government to do.

20 The majority of Ontario citizens voted for this
government, that is why you are sitting where you are,
21 and we are here to remind you of your commitment to the
people who voted you into office.

22 I have been asked to speak to you on behalf of
23 CorsoItalia. We are a small business community on
St. Clair between Dufferin and Landsdowne. My name is
24
25



1
2
3 Lily Lash.

4 I came here today, took time out of my busy
5 life, because I believe very strongly that when an
6 injustice is being done, it then becomes necessary for
7 people like me to let our voices be heard.

8 Yes, most certainly we are here because we
9 are hoping to change your minds. Although frankly,
10 this is probably an exercise in futility. I believe
11 you have already made up your minds, no matter what is
12 being said here today or any other day.

13 But we came here anyway, because we have a
14 common cause.

15 The media gives an over-abundance of free
16 publicity to the few who use tourists as an excuse to
17 open their doors on Sunday. Well let me tell you, if
18 you do not already know, tourists come to Toronto because
19 it is a fascinating and interesting city.

20 Tourists come to Toronto for the theatres, the
21 art galleries, the Museum, the Science Centre and an
22 abundance of attractions and cultural events.

23 We do not attract tourists because they want
24 to shop citywide on Sunday.

25 Tourists can see the Eaton's Centre, Harbourfront,
Yorkville and numerous other attractions on a Sunday.
They can walk through them, they do not necessarily have
to "shop" through them. These places are open for
business six days a week, generally even late in the
evenings. Leave Sundays alone.

But have one law for everybody. If certain
sections are designated tourist areas, an injustice to
being done to their neighbours. Before long each little
group will come up with excuses for becoming a tourist
area as well.

If one type of store is exempt, another similar



1
2
3 store will suffer. If you allow only stores with three
4 employees, it is unfair to those stores with four
5 employees. It will be neverending. It is time that
6 justice is properly distributed. Close all stores on
7 Sunday.

8 Many business people around this province, and
9 their employees, have worked hard over the past many
10 months.

11 We walked with petitions, and let people who
12 live and shop in our area, speak through their signatures,
13 which incidentally was sent to Mr. Peterson.

14 We poured our hearts out at Council meetings,
15 we spoke at City Hall, we spent large amounts of money
16 and gave many hours of our time, all in attempt to reach
17 the consciousness of the Members of this Parliament.

18 We do not wish to become chained to our
19 businesses seven days a week.

20 Now, finally, we are face to face with the
21 only representatives in Ontario who have the right to
22 vote on this issue, which will so dramatically and
23 profoundly change the face of this province.

24 If you vote for Sunday shopping, you will be
25 sacrificing the small business people, while at the
same time bringing hardship to many workers.

The large retail outfits in the malls will be
able to hire additional staff to handle the extra hours,
but the small merchant has to work all those added hours
himself. A situation which will eventually put him out
business. The logical conclusion to Sunday shopping
is that the large chain stores to continue to thrive
and become more successful, but this will eventually
lead to the extinction of the small merchant.

Is that what Ontario wants?

Certainly we have heard it said that no one will



1
2
3 be forced to open on Sunday, but the small entrepreneurs
4 have families to support and if their competitors are
open, what choice do they have?

5 In this busy world, where people rush around
6 all week and everything moves so fast, Sundays are
but a minute out from the stresses of everyday pressures.

7 Sundays are a respite from the turmoil of
one week to the next.

8 Sundays are a time for sleeping in, for resting
9 and for relaxing.

10 Sundays are a time when families must find
11 things to do other than go shopping. Peaceful Sundays,
12 without traffic, without rushing, gives us our last
chance to keep the family together as a cohesive unit,
spending the only day out of a week together.

13 Our life is difficult enough.

14 Let me present to you the typical work week of
15 the retailer, the average person who owns and operates
a small.

16 We work at least sixty to seventy hours a week
17 during store operating hours and an additional five to
18 ten hours a week are required for various administrative
duties.

19 Under the existing Sunday closing laws, plus
20 eight statutory holidays, we operate our establishments
for three hundred and five days a year. Do you know
that retailers must spend a third more time earning a
living than the rest of the population?

21 For the independent business person, Sunday
22 closing is vital to our sanity. It provides us with
time to preserve the family unit, which is fundamental
23 to our society. Sundays allow us to spend the time
to satisfy our human needs.

24

25



1
2
3 Sunday provides us with the luxury of gathering
4 our thoughts.

5 Sunday allows our children to share a day with
6 us.

7 Sunday shopping will make life more difficult
8 for thousands of people, merchants and workers alike.

9 At the present time our society is structured
10 on a five or six-day week.

11 There is no point in giving a worker Tuesday
12 off, when their children are at home on Sunday, or are
13 you also going to open our schools seven days a week
14 and run offices seven days a week and open governments
15 for business seven days a week?

16 Or does the future hold that a family day is
17 only for elected government officials?

18 I came to tell Mr. Peterson that all of us have
19 a right to a family day. Mr. Peterson ran for office.
20 He wanted to be our leader. Where is his leadership
21 now? Where are his promises of taking a stand?

22 A government gets elected to make decisions,
23 be they right or be they wrong.

24 A government does not get elected to shrug
25 their shoulders and let someone else take the blame.

How can a Premier of Ontario sit on the fence
and shirk his responsibilities?

How can this Committee even think of letting
each municipality make their own little decisions?
Decisions which will so intensely and so profoundly
change our way of life, that they must never be allowed
to sluffed off.

The Supreme Court rules justly. They made their



1
2
3 decision in the best interests of the majority of the
4 people. They were wise in their judgment when they
upheld Sunday closing regulations.

5 No one has the right to ask people if they would
6 like to shop on Sunday. Ask them instead if they would
like to work on Sunday.

7 Now is the time for this Peterson government
8 to help and I challenge you to take a stand. I challenge
the existing laws by policing and penalizing those
businesses which fail to observe this legislation.

9 Depriving even one person of a day of rest
10 together with his family is unjust, unfair and uncivilized.

11 Mrs. Lamanna: "That would be the chicken
12 way out" is the response Joan Smith gave when questioned
about the Sunday shopping issue and the local municipal
option.

13 Good morning, Mr. Chairman and Members of the
14 Standing Committee dealing with this issue of Sunday
shopping.

15 I have felt compelled to come to you today on
16 behalf of two hundred and fifty businesses representing
17 twelve hundred to fifteen hundred employees from
Corso Italia formerly known as WestClair B.I.A..

18 Most of the businesses I represent are
19 independent family operations. The issue of Sunday
shopping is one that examines the nature of fairness
20 and justice in our society. It is my belief that the
mundane and irrational principles of the incessant
21 drive for material gain is deteriorating the lifestyle
and values of the retail community and in fact, Ontario
at large.

22 In order to properly assess the present
23 situation, I will examine the impact that the proposed
legislation will have on the economic and social well-

24
25



1
2
3 being of our society in Ontario.

4 First of all I would like to bury the myth
5 that Sunday shopping will increase sales. What in
6 fact happens is that retail activities are spread over
seven days rather than six days. The amount of profit
generated remains constant yet operating costs increase.

7 Do you consume more food because the stores are
8 open seven days? Do you buy more shirts in seven days?
Do you buy more furniture because the stores are open
seven days?

9 If retail establishments are open seven days
10 a week, does that give you more disposable income to
spend?

11 Furthermore, the expansion of the retail week
12 will place a greater demand on the needs for energy,
13 transportation and the necessary social services such as
daycare.

14 As a co-founder of a non-profit daycare, I
15 can tell you firsthand that we have a two-year waiting
16 list for Monday to Friday services. How are we going
to provide for weekend care? And where are your funds
to provide even five-day care?

17 Essential services such as policing, will
18 experience an increase in the demand for its services.
19 As one policeman mentioned to me, the common pause day
is one in which even the criminals take the day off,
because crime is generally down on Sundays. But this
change if every day became the same.

20 Ontario would lose its one day of sanity that
21 we presently have. This would also compromise the
quality of services from the retail industry.

22 This may be a bit repetitive, because Lily
23 has mentioned some of these points, but I would like to
24 present what our week is like as a retailer.
25



1
2
3 We spend in the store between sixty to eighty
4 hours a week, during store operating hours, and furthermore
5 we have five to ten hours a week in various administrative
6 duties. That gives us a grand total of between sixty-five
7 hours to ninety hours a week.

8 Without Sunday shopping and the eight statutory
9 holidays that we now have, afforded by present
10 legislation, our establishments are open three hundred
11 and five days a year.

12 Compare this to the teaching profession, for
13 example, which requires its employees to work a hundred
14 and eighty-five days a year. The retailer's is almost
15 double that of a teacher.

16 In light of these facts it is obvious that
17 to take away our one day week of rest is in short
18 cruel.

19 Ladies and gentlemen of the Committee, for the
20 independent businessman, our day of rest is vital to
21 our sanity. It provides us with time to get out of
22 the consumerism mentality.

23 Surely there is more to life than shopping?

24 The family unit is the fundamental thread
25 with which is woven the social fabric of our society.

Time must be set aside to develop quality time
with family and friends. Sunday provides us with a
time to attempt to satisfy our human social needs.

Family is work also. When we are going to have
time to work on our families?

In places like British Columbia, Vancouver in
particular, I know of retail workers who must work ten
to fourteen days without a day off, in malls from twelve
to ten p.m., thereby giving them no time to see their
children and family.



1
2
3 Another experience we may draw on is the
4 Boston experience with Sunday shopping. Boston is
5 often compared with Toronto as to size and vitality,
6 in that type of way.

7 On August 5th, 1988, the Andy Barrie Talk Show
8 on CFRB in Toronto, held a talk show with citizens from
9 Boston on the issue of Sunday shopping. Ninety per cent
10 of the Bostonians who called, were against Sunday shopping,
11 and Sunday shopping has been implemented in Boston for
12 five years.

13 One young retailer in Boston changed his line
14 of work after he married, realizing that a healthy family
15 life would be non-existent if he remained a retailer.

16 The naive notions that the concerns of the
17 retailer worker will be protected is inane, as cited by
18 another caller from Boston. He indicated that he had
19 no choice with regard to his days of work.

20 Furthermore, the retail workers union in
21 Massachusetts is presently involved in battling to preserve
22 the special pay rates that were promised to the clerks
23 who work on Sundays.

24 In fact, the chain stores and department stores
25 are striving to establish Sunday to be merely another
ordinary working day.

Another caller stated that youth social programs
suffer because young people are required to work on
Sundays. They are the fill-ins for the full-time workers.

On March 16th, 1987, the Conference Board of
Canada released its study on Canadian workers' aspirations.
It found that a third of Canadian workers would willingly
sacrifice part of their income for more time off work.

However, what is interesting to note about the
study by the Conference Board of Canada, is that they
found that British Columbia workers had the greatest



1
2
3 interest in a shorter work week. This is the very same
4 province that has instituted Sunday shopping.

5 The average work week of the British Columbian
6 work force is between thirty-five to forty hours.
7 Compare that to our present sixty to ninety hours we
8 are required to be on the job.

9 Is this not ample evidence of the necessity
10 of a day of rest?

11 The British Columbian experiment with Sunday
12 shopping has made British Columbians recognize the value
13 of free time.

14 Even Ontario public workers may enjoy an extra
15 day off if they condense their work week into four days,
16 thereby giving them three days off in one week.

17 And this government would like deny us even one
18 day off? It is not fair. It really is not fair.
19 Why would you want to compel twenty per cent of Ontarians
20 to cater to the whims of the masses who would not like
21 to put in seventy to eighty hours a week themselves, but
22 merely would like to spend their time browsing in the
23 stores.

24 What is this government's vision of Ontario?

25 Does this government foresee a society in which
the chief concern is with material consumption? If so,
this is a very base and crude vision of society.

The shop till you drop mentality would serve
to perpetuate this idea. Surely we are culturally
mature enough to find amusement and recreation in other
activities, such as taking up the government to Discover
Our Ontario. Or is that invitation extended to everyone
except retailers?

As a representative of Corso Italia, a tourist
attraction in Toronto, we vehemently object to special



1
2
3 designation of a business district as tourist areas. It
4 can be effectively argued that all of Ontario is a tourist
attraction.

5 True world class cities like London, Rome,
6 Frankfurt and Florence, do they attract you because their
7 retail establishments are open on Sunday? No. All
8 retailers close in the early afternoons Saturdays, so
9 that retailers too may have some time off to recharge
their energies.

10 Toronto is the envy of North America and
11 perhaps the world.

12 To keep Toronto a sane and hospitable city
13 in which to live and work, I feel that it is necessary to
14 preserve a common pause day.

15 I have heard many times from American friends
16 and tourists that they enjoy, they really enjoy Toronto
17 on a Sunday, because it is different from their Sunday.
18 Their Sundays are all the same. Monday is the same as
Sunday and so is Tuesday.

19 There is something special about Sunday. I
20 live right in the City of Toronto and Sunday is special.
It is quiet, and I would not want to see that changed.

21 That one Sunday on Boxing Day, I walked out of
22 my home and I thought St. Clair looked like a Saturday.
23 It was terrible. I hated it.

24 What you usually see on Sunday morning is young
25 people out strolling on St. Clair, going to church. It
is a people time. It is a relaxing time.

What do you think people are going to do, that
live on the main streets of Toronto, if every day is the
same? The streetcars role by the same, every two minutes,
and it is just not a good prospect to look forward to.

Families and society in general already have too



1
2
3 many forces working against them. We do not need another
4 stressful situation. It may prove to be the hair that
breaks the camel's back.

5 Mr. Peterson and colleagues, we employ you
6 all to act favourably on this situation. We Ontarians
7 have given you an overwhelming mandate and now it is up
to you to give us decisive and compassionate leadership
that all Ontarians deserve.

8 Enough of this wishy washiness, Mr. Peterson,
9 and Committee Members. Stand up for the rights of the
small business and families who are the backbone of the
retail industry.

10 I put forth the challenge to this government
11 to prove to all Ontarians that this Standing Committee is
12 not a sham or a means to appease the wishes of hoi polloi
and put forth a semblance of fairness and justice.

13 The Government of Ontario should undertake
14 to follow the only fair option: Key Sunday a common
pause day. This is no time to take the chicken way out.

15 Mr. Chairman: Thank you very much. Two minutes
16 and twenty seconds per caucus for questioning of the
deputants. Do we have any hands raised? No questions?
Mrs. Cunningham.

17 Mrs. Cunningham: Thank you, Mr. Chairman.

18 I don't know what to say. I mean, your
19 presentation made such good sense and it was really from
the heart and a part of the city I know very well, because
20 I grew up there. It seems like years ago now, Mr.
Ballinger, would add to that, I'm sure

21 Mr. Ballinger: I was going to restrain myself.

22 Mrs. Cunningham: But was great and was closed
23 on Sundays and that is exactly what we used to do, take
long walks and take part in the community activities,
24
25



1
2
3 and the commercialism in those days simply was not there.

4 I think the underlying impetus that you have
5 tried to bring to us, was just the regular everyday
6 problems with this legislation.

7 I think it is obvious that the government is
8 not listening or we would not all be so quiet and
9 depressed by the whole process that we have just been
10 through.

11 I am sure that you could have used the ninety
12 thousand dollars for the daycare you have talked about,
13 that we have spent travelling around this province,
14 supposedly listening, but I will tell you, we haven't
15 been.

16 If all we do is change the size of a drugstore
17 or change the amount of the fine, it has been a total
18 waste of money. No one had to travel to the different
19 parts of this province to make those kind of decisions,
20 at all, I can assure you, and I am sure you agree with
21 me.

22 I would really like to look at the Conference
23 Board of Canada report, if you can send it to me.
24 Especially with respect to the way workers feel -- I
25 was not aware of that report -- how they feel working
and the fact that they would trade off, having time at
home with their families, which we have heard from almost
everyone that has made presentations before our Committee,
only to speak to the division, and the division is not
a happy one for this province, there is no doubt about
it, when it comes to the quality of family life.

But I am sure you will hear from the Liberals
on this Committee that they are not very worried, because
the municipalities will all make the right decisions,
because more recently they have all voted to say that
they are against Sunday shopping. Well, lucky us in
1988.

But I mean, who knows what is going to happen in



1
2
3 1991, as the municipal Councillors change across the
4 province and as I predict this government will change,
after they pass this legislation.

5 Mr. Chairman: Thank you, Mrs. Cunningham.

6 Mrs. Cunningham: I can only thank you for
coming and making such a heartfelt presentation.

7 Mr. Chairman: Mr. Philip. Two minutes and
8 twenty seconds.

9 Mr. Philip: Thank you. I'm sorry I was a
10 little late for your presentation. I have read it.
You see I was in New Brunswick and just flew in this
morning.

11 I met with a number of the Liberal members of
12 the Legislative there and they informed me, in the
13 presence of Liberal members of this Legislature, that
this kind of legislation there created anarchy and
that they are reversing the legislation.

14 I want to ask you a question about the B.I.A..
15 I assume that you have put a lot of effort -- and I know
16 the area where you are located -- a lot of effort into
improving that area, so that all of the business does
not disappear into the North York malls and larger
17 shopping centres.

18 Would you agree that a lot of provincial
19 tax money under the Municipal Act has flown into the
B.I.A.s with the premise that communities like the
20 St. Clair-Dufferin area are important to preserve as
family areas, as shopping areas, and so forth, and does
21 it not seem somewhat ironic that the government has
poured in all this tax money to improve these business
22 areas, only now to introduce legislation that we know
from other jurisdictions means a flood of business out
23 of those areas into the big shopping malls? Does that
not strike you as an awful waste of taxpayers' money?

24 Mrs. Lamanna: That's right. I think as
25



1
2
3 independent businessmen -- and I don't know if any of
4 you are in that field -- we are struggling every day,
5 because we are very small compared to the big guy buying
6 volume and buying quantity, and we offer an extra
7 service and our prices may be lower than the big chains,
8 but we are continuously struggling with the hours nine
9 to ten every night, kind of thing, against the malls,
10 and we have put a lot of our own money into the B.I.A.
11 program, just to keep above water type of thing, for
12 surviving.

13
14 I think what the province is proposing, in this,
15 the little businessman will disappear, because they
16 just cannot cope.

17
18 I know my children, when they see the kind of
19 hours we put in, and the reason I can put the kind of
20 hours in that I do -- and Lily can vouch for this -- we
21 live upstairs from the store; okay? And that's why to
22 me, Sunday is so important. I want Sunday to be Sunday
23 and I want Sunday to be a relaxing time. That is the
24 only time when we catch our breath.

25
26 When our kids see what we do, they like the
27 retail business, they enjoy the retail business, they
28 enjoy dealing with the public, but they would never
29 think of going into it, not to be slaves to the community;
30 you know, just to come in and look around on Sunday.
31 They are not going to buy extra.

32 Mr. Philip: Thank you.

33 Mr. Chairman: Mr. Kantor, two minutes and
34 twenty seconds.

35 Mr. Kantor: Thank you, Mr. Chairman. Mr.
36 Chairman, I have heard the briefs and they are extremely
37 strongly argued. I just want to review some of the
38 clauses of Bill 113, to see if some of the concerns may
39 actually be met by the Bill, oddly enough, odd though
40 that may sound.

41 Bill 113, as you are probably aware, requires



1
2
3 most stores to be closed on Sunday. It is not a free
choice, free will, up to local municipalities to decide.

4 It is a province-wide law which keeps stores
5 closed on Sunday. But it goes beyond that.

6 You spoke, Mrs. Lash, in your brief about
penalties and enforcement.

7 I would like to speak about penalties and
8 enforcement, because you know and I know, right now
9 there are certain retailers in the City of Toronto, in
the Metro area, and in Ontario, that have flouted the
existing law. Have dragged things through the Courts.
10 In some cases they have had nominal fines.

11 I disagree with you, by the way, about
12 enforcement. A retailer was apparently taken away in
handcuffs from the Region of York recently. He was quite
irate. He felt he was being -- let me just proceed for
13 one moment on the question of penalties.

14 This Bill sets out very substantially those
penalties, to a maximum fine of fifty thousand dollars.
15 A substantial increase from the current amount.

16 Maybe you think that is not enough? Maybe
17 you would suggest increasing it still further? That's
fine.

18 Mrs. Lash: Under the current law?

19 Mr. Kantor: Exactly. Under the current law.
20 Under the current law you can stay open and then you
drag it through the Courts and then you get a lawyer and
21 go to the first Court and something against you, go to the
second Court, and go to the third Court. So that is why
we have changed the law.

22 We have a provision in this law that permits
23 the Court to get an injunction against a retailer who
has been open and it is like, in a different context, a
24
25



1
2
3 strike. If there are a lot of picketers, a company can
4 go and apply for an injunction right away, to stop the
store from being opened.

5 So that I would submit to you this law in many
6 ways strengthens the current law.

7 Let me tell you another effect of the current
8 law, and we have a group that is going to be coming to
us, complaining that we are shutting things down and
you cannot afford to get sick, et cetera, et cetera.

9 This law is going to be shutting down a lot
10 of very large stores that may be competing with you,
that may be competing with you that are masquerading
11 as drugstores, they are very large stores, thirty-five
thousand, forty thousand square feet, in the Metro Toronto
area. This Bill is going to shut them down.

12 So that I would submit many of your concerns,
13 in fact, are going to be met by Bill 113.

14 Mrs. Lash: Mr. Kantor, I think you and I both
15 know that if this law goes through, that within a year
or within two years, Ontario will be open.

16 Mr. Kantor: Not even Mrs. Cunningham agrees
with you on that.

17 Mr. Chairman: Thank you, Mr. Kantor. Thank
18 you very much for coming forward and giving us your
views. We are interested in them and the Committee
19 appreciates receiving them.

20 The next delegation is Mike Summerfield.
Would you like to come forward, Mr. Summerfield? Have
21 a seat and you have thirty minutes to make your
presentation, if you choose to use all of that. If not,
22 there will be questions and we will allocate the time
equally amongst the caucuses.

23 Mr. Mike Summerfield: Thank you very much,
24
25



1
2
3 Mr. Chairman.

4 I do not think I can add much to the last two
5 delegations and what has been put forth to you. I
6 believe the last delegation did mention that they feel
7 that this process has been a futile waste of time; that
8 the government has already made up their mind they are
9 going to put it through. It has got one more reading
10 and then it goes to the Lieutenant Governor to be signed
11 and then put in.

12 It worries me basically that if this Bill goes
13 through, one, that the government is relinquishing their
14 power of keeping Sunday shopping from occurring, and
15 they are giving it to their Regional Government to handle
16 and let's put it this way: If you give, as one large
17 corporation or a company, you can knock anybody down that
18 comes up to you, but if you are a group of individuals,
19 patchwork, you are going to get tumbled down a little
20 bit faster by the steamroller. I do not think in that
21 sense, there, the government should relinquish its power,
22 as they seem to be doing.

23 Also, if you look at family life, the way it
24 is now, divorces increasing, and so on, it is because
25 people do not have time any more to communicate. They
are too busy making money to survive.

It is a sorry state, where you cannot afford,
some people cannot afford, houses to live, and so on,
and that has not really been addressed.

I wish I had had this down in point form,
really.

I have got a few friends, I have been talking
to quite a few people about this, because of what I do,
and everything, I am a sales rep, I am from the Brampton
area or the Peel Region. So I get around there quite
a bit.

I have a friend, and it comes down to the case,



1
2
3 he works for a grocery store and he works the night
4 shift Monday through Friday night, and gets Saturday
5 and Sunday off. Now, if the Sunday shopping is allowed,
6 he will also have to work the Saturday night shift,
depending on where his lot comes up, but his wife works
Monday through Friday, and they have to put their two
kids into daycare and they are just able to survive.

7 That is where I think most families in the
8 Toronto area and commuting distance, are going to be
9 running up against it very soon, because the economics
10 of it are instead of having, cramming six days, if you
11 go out there and shop, now you are -- let's put it this
12 way if you are a procrastinator, in the way like
13 I am and you know that you don't have to go and get this
14 thing, because the store is going to be open on Sunday,
15 then you are going to leave it to Sunday or Monday or
16 whenever you can get around to doing it, and you are not
17 really making any more money. What you are doing is
18 incurring more expense for your hydro, your salaries,
19 and so on.

20 I think when it comes down to it, as the last
21 delegation said, you are also spreading your sanity very
22 thin as well. So you are not going to get, the consumer,
23 is not going to get the proper reception from the
24 retailer. Therefore it is going to cut down their
25 business even moreso. Because how many people would go
back to a store where the retailer snaps back at you
for, you know, the least little thing?

I think that is what it comes right down to,
and I believe that if anybody else in this room were asked
to work Sunday or had no choice but to work Sunday, would
you want to? And that is what you are asking the
retailers to do, in essence, if it goes through.

Now I know it is coming back that the Bill is
there to protect everybody, because the regions have the
thing to make it a tourist region or not a tourist
region, and in this case, where we should not allow wide
open, the regions, to break down in this sense; like, for



1
2
3 example, Peel is going to say -- they are not going to
4 say this, I am going to assume this now -- if they get
5 steamrolled, let's go and have the Sunday shopping,
because we want the tourist industry, we do not want
everybody going to Toronto to do their shopping.

6 I am just wondering, is it to appease the
7 American tourists coming across? Like, we are trying to
8 stay away from becoming like the Americans and their
9 society, through free trade and everything, and then we
are saying no, we want to get the American dollars.

10 So, it just seems that we are, Midas, is getting
11 everybody, and that is basically about my talk.

12 I can't add to what other people have said,
13 because I am sure you get sick and tired of listening to
14 the same thing over and over and over again.

15 Mr. Chairman: Thank you, Mr. Summerfield.
16 Twenty-four minutes, so about eight minutes a caucus.

17 There do not appear to be any questions, Mr.
18 Summerfield. I guess you have said it very clearly.
19 We appreciate your coming forward.

20 Mr. Philip: We agree with you.

21 Mr. Summerfield: Oh, thank you.

22 Mr. Chairman: Everybody's view that comes
23 before us, from time to time, adds something for the
24 Committee to think about.

25 Mr. Summerfield: I hope so, because it seems
that what is going to happen, if this Bill goes through,
the government is going to be perceived, one, as
relinquishing power and not being a decisive government,
and it just seems, of the Bills I can bring to mind,
is the education and separate school issue.

Mr. Chairman: But we are not here to talk about



1
2
3 that.

4 Mr. Summerfield: No, but, you know, it is
5 just something, you know, instead of having one
6 administrative body, we have now got two to pay for, and
7 that is where it stands.

8 Mr. Chairman: We appreciate your taking time
9 out to come before us. Thank you very much.

10 Just before we adjourn, Committee Members,
11 the last delegation of the day has been speaking to the
12 Clerk, and that is the Canadian Council of Grocery
13 Distributors, who have indicated to the Clerk that
14 through some way, they have been told or received
15 information that they have got an hour for presentations.
16 I have instructed the Clerk on behalf of the Committee
17 to advise them that the maximum we gave anybody or
18 agreed to give anybody was half an hour. I would hope
19 that the Committee would agree that was our direction and
20 I will so instruct the Clerk to advise them, and I already
21 have actually.

22 Mr. Philip: It is not in our ability at this
23 point, anyway. We do not have a quorum. The rules were
24 set and I think the Chairman and the Clerk were advised
25 of the rules and they advised everyone, and I don't think
you should change it now; or otherwise you are going to
have a lot of groups that would perhaps have liked an
hour, and would be very upset that somehow we are giving
special favours. I agree with the Chairman's position
on this.

19 Mr. Chairman: Thank you. Then they will be
20 our last delegation and they will have half an hour just
21 as everyone else. We stand adjourned until two o'clock
22 this afternoon.
23
24
25

CADEN
8014
-578

J-34b

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

RETAIL BUSINESS HOLIDAYS AMENDMENT ACT
EMPLOYMENT STANDARDS AMENDMENT ACT

THURSDAY, SEPTEMBER 29, 1988

Afternoon Sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Callahan, Robert V. (Brampton South L)

VICE-CHAIRMAN: Hart, Christine E. (York East L)

Chiarelli, Robert (Ottawa West L)

Cureatz, Sam L. (Durham East PC)

Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

Keyes, Kenneth A. (Kingston and The Islands L)

Philip, Ed (Etobicoke-Rexdale NDP)

Poole, Dianne (Eglinton L)

Sola, John (Mississauga East L)

Sterling, Norman W. (Carleton PC)

Substitutions:

Ballinger, William G. (Durham-York L) for Ms. Poole

Collins, Shirley (Wentworth East L) for Mr. Keyes

Cunningham, Dianne E. (London North PC) for Mr. Sterling

McGuinty, Dalton J. (Ottawa South L) for Mr. Chiarelli

Clerk: Deller, Deborah

Staff:

Swift, Susan, Research Officer, Legislative Research Service

Witnesses:

From York Pharmacy:

Ceifets, Bernard, Owner

Individual Presentation:

Hill, Brenda

From Landscape Ontario Horticultural Trades Association:

Thiebaud, Mark, Legislation Chairman and Past President

Saskin, Theodore, Counsel

Individual Presentation:

Barr, David

From the Catholic Women's League for Ontario:

Tipping, Margaret, Provincial President

Herman, Jacquie, Resolutions Convener

Covelli, Josephine, Toronto Archdiocese President

From the Canadian Council of Grocery Distributors:

Carter, Tim, Vice-President

Luedtke, Wayne, Executive Vice-President, Merchandising, A&P/Dominion

Faas, Andrew J., Senior Vice-President, Administration, Central Canada Grocers Inc.

Winstanley, Robert, Director, Marketing Projects, Miracle Food Mart



AFTERNOON SITTING

The committee resumed at

Mr. Chairman: We recognize a quorum and the first delegation on our list this afternoon is York Pharmacy, Bernard Ceifets. Mr. Ceifets, you have thirty minutes. It is your time. We are here to listen to you and you can choose to use all of that time, that is prerogative, but if there is any time left over, I will divide it equally amongst the various members of the different parties that are on this Committee. So if you would like to proceed.

Mr. Ceifets: Thank you. Good afternoon. My name is Bernard Ceifets, C-e-i-f-e-t-s. I am pharmacist practicing in Ontario. I am president of Bilburn Drug Limited which operates York Pharmacy in Downsview.

I have come here today to protest against the Retail Holidays Amendment Act, specifically the clause which will force pharmacies with the service and sales area of over five thousand square feet, to close on Sunday. A clause which at the moment would not affect my pharmacy, but may I elaborate.

After graduating from the University of Toronto in 1959 and working as a manager for a small chain of pharmacies, I opened up York Pharmacy in 1961.

In the last twenty-seven years, I and my employees, several of whom have been with me over twenty years, have worked very hard. From the beginning of bank loans, large mortgages and long hours, my pharmacy today employs approximately forty people. Many from ethnic and minority groups.

While you may say this is all very nice, but if the new Act will not affect you, why are you here, please bear with me.

The success of my pharmacy has always been a combination of excellent employees, loyal customers and my continual adjustments to changes in pharmacy in both the professional and commercial areas.



1
2
3 My profession is unique. I am a health
professional but also wear the hat of a businessman.

4 May I now put on my business hat.

5 I have an opportunity to expand my pharmacy and
6 remember, my success has been based on adjustment to
change.

7 This expansion will increase my sales and
8 service area to over seven thousand square feet. I am
now in a Catch 22 situation.

9 I need to expand to remain competitive, to
10 maintain staff morale and to service my customers. But
11 if I do expand, the new legislation will force me to
close on Sundays.

12 York Pharmacy fills about seventy-five thousand
prescriptions per year. Thirty-five per cent of my
13 sales are prescriptions and over eight-five per cent of
my sales are traditional pharmacy products.

14 I need to expand my professional service areas
15 to better service my customers, the majority of whom are
low income families, Welfare recipients and senior
16 citizens. They come to York Pharmacy, because we provide
services they need, employees who can speak their language,
17 a delivery service, a postal substation and hours which
are convenient to them and not just to us.

18 Compare my pharmacy of today with twenty-five
19 years ago.

20 The baby section now stocks twenty-five feet
of disposable diapers and twenty feet of baby formula.
21 Products which were not available then.

22 Compare the cough and cold sections, for the
proliferation of new products. Add to this the section
23 for Seniors and the new diabetic supplies. The vitamin
and stomach selection preparations has tripled.

24

25



1
2
3 In my particular case, with no basement, I must
4 use prime floor rental space to provide a stockroom, offices,
lunchroom, receiving areas and washrooms.

5 A much smaller pharmacy than mine, with a
6 basement, would have a greater sales and service area.
Most facilities presently being built for pharmacy
occupancy do not have basements.

7 Over the last few years pharmacy profits have
8 been eroded by government intervention, third party
prescription plans, the Ontario Drug Benefit Plan. This
9 means to survive the pharmacy must be efficient and must
give good service.

10 As an example, this year, to improve efficiency
11 and service, I replaced my pharmacy dispenser computers.
12 Ten years ago, my first computer installation was one
of the first ones used in a pharmacy. Then, as now,
it was innovation and adjustment to change.

13 My pharmacy cannot close on Sundays. We fill
14 approximately forty prescriptions on an average Sunday
and up to one hundred prescriptions during seasonal
15 flu epidemics. The majority of these prescriptions are
new, coming from local hospitals and are for acute
16 conditions.

17 Many of the customers who shop on Sunday, do
18 so because this is the only day they have to shop. They
wish to come to York Pharmacy, where they are known,
19 where they feel comfortable and where they get our
service.

20 The only full-time employee on Sunday is the
21 pharmacist. The rest are students who clamour to work
on weekends.

22 As an aside, over ninety per cent of my student
23 employees go on to post-secondary education. Many are
second generation employees, whose parents know there
is a third person watching over their child's education.
24
25



1
2
3 Pharmacist is the health professional on the
4 front line of communication with the general public.
5 They have easy access to our professional knowledge and
6 do not hesitate to converse with us. Senior citizens,
7 the single parent, the chronically ill, we see them every
8 day. Why should they be denied these services on Sunday
9 at a pharmacy they wish to patronize.

10
11 To service these people better, York Pharmacy
12 must expand.

13
14 Why should I be punished for be successful?

15
16 I do not want to be a Hy & Zel, a Superstore,
17 or a Howies. I do not want to put Loblaws or A&P out
18 of business. I just want to remain that innovative,
19 caring two-hatted professional.

20
21 However, every so often I get the feeling that
22 the government merely takes my taxes and then uses them
23 to figure out ways to put me out of business.

24
25 In conclusion, let me add that the five thousand
square feet limit as proposed in this legislation, is not
realistic in the 1980s, and the limit of seventy-five
hundred square feet for sales and service in pharmacies
would be fair to both the professionals and the public,
whom we both serve. Thank you.

Mr. Chairman: Thank you very much. That is
about twenty-four minutes left. So eight minutes per
caucus. Mrs. Marland?

Mrs. Marland: Thank you, Mr. Chairman.

Mr. Ceifets, when you said that the people come
to your place of business, without a copy of your speech
in front of me, I am just recalling, I think you used
words like service and you gave a number, two or three
words, about why people come to your location?

Mr. Ceifets: Yes.



1
2
3 Mrs. Marland: I wondered if amongst that list,
4 you would have chosen to add also that there are many,
5 many patients who come to you, because you also happen
6 to have their medical records in terms of their
7 prescription?

8 Mr. Ceifets: That is true. That is what I
9 consider part of the service. We do have all of our
10 patients on the computer, and they are not transferable
11 between other pharmacists and there are certain things,
12 there is allergies and there is the history, the past
13 history and there is duplication of medication.

14 Mrs. Marland: And cross-referencing between
15 one prescription and another?

16 Mr. Ceifets: Exactly.

17 Mrs. Marland: As a pharmacist -- and I know
18 from the pharmacists that I have discussed this with, is
19 that not a major concern of yours as a professional, that
20 your patients may be prescribed something on Saturday
21 night or Sunday morning that, first of all, they need to
22 have filled?

23 Mr. Ceifets: Exactly.

24 Mrs. Marland: And how much safer for that
25 patient to have it filled by someone who has their
total clinical record.

Mr. Ceifets: Exactly. The most common example
is senior citizens, where you get a duplication of
medications, where seniors think they are different
products, and different medications and different
strengths, and they have to be sorted out, and they go
to an emergency service and many weekends physicians do
not work, so they are not covered by their regular
physician, they go to a hospital, to the emergency
department or house call service, and it happens.

Mrs. Marland: And they can come out of an



1
2
3 emergency department in a hospital and walk into a
4 pharmacy that does not have their total prescription
picture?

5 Mr. Ceifets: Does not have their total
6 prescription picture and the only person that will suffer
is the patient.

7 Mrs. Marland: But of course the typical
8 attitude of the current government as to health care in
9 the province has been well demonstrated in the last three
10 years. So the future of health care in Ontario is already
at risk, without further problems that are going to be
presented by the fact that people will not have access
to their prescription records on Sundays in pharmacies
of businesses of your type.

11 Mr. Ceifets: Exactly.

12 Mrs. Marland: I thought it was interesting to
13 hear your description of how in your particular physical
14 plant, the problem of square footage is compounded by
the fact that you do not have a basement and therefore
15 the measurement of square footage for you is very
significant. I think that is something that the
government should take into consideration, because if
16 there is going to be a limit on square footage, which
obviously the government is proposing that there would
be, and I think that our caucus is supportive of
17 expanding that minimum of five to seventy-five.

18 But in any case, whatever the cut-off figure
19 is, whether it is seventy-five or ten or stays at five,
it is still an arbitrary figure and it should obviously
20 be, from what you have said this morning, very specifically
reflect retail space and exempt people, who also have to
21 use that square footage for their storage and office
space, as in the example you give.

22 Mr. Ceifets: In my particular case, I rent
23 over five thousand square feet, but I only utilize for
sales and services, approximately a little over four
24
25



1
2
3 thousand square feet. But I still pay the prime rental
4 on the storage and unserviced area; and you can have
5 a pharmacy that would maybe only four thousand square
6 feet and have four thousand square feet of basement
7 and has got eight hundred thousand square feet.

8 Mrs. Marland: Isn't it ironical, because that
9 little facet that you have introduced to the Committee
10 today, about what part of your area is completely retail
11 space for you, is a facet that is very real and yet this
12 government has told us that one of the reasons the
13 current legislation is unworkable is because we have,
14 quote, the farce of this roping off of areas in grocery
15 stores on Sundays, and how unrealistic it is to rope
16 off areas in order to make stores comply to certain
17 sizes.

18 If that is unrealistic, I would suggest from
19 the example that you have given us today, it is also
20 unrealistic to arbitrarily say that a pharmacy must be
21 X number of square feet, without taking into consideration
22 what square footage is actually used in the retailing
23 and what is storage.

24 Mr. Ceifets: I cannot argue with that.

25 Mrs. Marland: Thank you. I am sure my
colleagues will have some questions.

Mr. Ballinger: (Inaudible)

Mrs. Marland: Mr. Chairman, do we always have
to have this crossfire and taking up our time.

Mr. Chairman: Just do not pay any attention.

Mrs. Marland: I will try to.

Mr. Chairman: Mrs. Cunningham.

Mrs. Cunningham: I have a couple of comments
to make on this.



1
2
3 I guess the shock in the first place was to see
4 the five square footage in this proposed Bill and
5 proposed legislation. I guess my concern at that time
6 was where is this government, this very large government,
7 getting its information? Because I think what they should
8 have been looking at is who has been serving the public,
9 and I have to congratulate you, since 1961, you are the
10 guy that has decided to stay open and serve your community,
11 whereby so many are not. So I thank you for that and
12 appreciate it very much.

13
14 I should tell you that although this government
15 has not been listening to the people as they have been
16 coming before this Committee on this particular issue,
17 and they have been, because the five thousand square feet
18 number is so ridiculous, that they have to.

19
20 So in looking at some of the research that the
21 staff put together for us, we are probably going to be
22 arguing sometime next week, in the clause by clause
23 hearing, as to what that number ought to be, and I think
24 I can speak for all of us on the Committee, that the
25 number of seventy-five hundred does appear to be more
reasonable, or somewhat reasonable. But I think the more
responsible number would be one as high as ten thousand,
because what the Solicitor General was really concerned
about, were the four big H factors.

We found out in our research that with the
exception of maybe one or two stores, they are all over
thirty thousand square feet, but they are basically all
over twenty thousand square feet. The great big stores
are over twenty thousand square feet. We have a couple
between fifteen and twenty, but basically that is what
they are.

So that is the real reason for putting the
number in and not to get into this sort of food-drugstore
opening. That was the thrust according to the Solicitor
General at the meeting on the 3rd of August, the first
meeting of this particular Committee, that was her
concern. So I think we are looking at seventy-five hundred



1
2
3 is my point, and I thank you for coming, because every
4 little bit might help. Might, underlined. Thank you.

5 Mr. Chairman: Miss Hart.

6 Miss Hart: Thank you, Mr. Chairman.

7 Mr. Ceifets, just to pursue that line a little
8 bit further --

9 Mr. Ballinger: (Inaudible)

10 Mr. Chairman: You are not eating into Miss
11 Hart's time.

12 Mrs. Marland: (Inaudible)

13 Mr. Chairman: Well, no, Miss Hart did not make
14 the interjection. So we should give her her full time.
15 Go ahead, Miss Hart.

16 Miss Hart: You spoke about being in the same
17 location for many years and you also spoke about an
18 opportunity to acquire some more square footage, in the
19 neighbourhood of seven thousand?

20 Mr. Ceifets: No.

21 Miss Hart: That is what I thought I heard?

22 Mr. Ceifets: If I can expand: My total rental
23 area will be over seven thousand square feet.

24 Miss Hart: I am not asking absolutely,
25 specifically, but what would be the retail space in that
seven thousand square feet?

Mr. Ceifets: My present rental space is five
thousand, and, as I said, I use about forty-four. I would
be renting another, I think, about twenty-five hundred
square feet. So, I guess on the same proportion, it
would increase my sales area another two thousand square



1
2
3 feet. So it would bring me up to a service area of
about sixty-four to sixty-five hundred square feet.

4 Miss Hart: So if we did -- and there have been
5 discussions about this -- increase it to seventy-five
6 square feet of service area, that would fit your
requirements, or would it?

7 Mr. Ceifets: To be quite selfish about it,
8 that would be perfectly fine for me.

9 Miss Hart: The other thing is I want to direct
10 your attention to the actual amendment in Section 3 and
11 it talks about the service area only being counted in
the five thousand square feet and it is perfectly clear.
But I do not think that was the point you were making?
You were saying you had a competitive disadvantage because
you had to rent at prime rental for your store?

12 Mr. Ceifets: No, no. If I acquired this extra
13 space, my sales and service area would be over five
14 thousand square feet, and this legislation states I
would have to close on Sunday.

15 Miss Hart: Yes, I can appreciate that, but
16 as an additional point, you are making the point that
another drugstore could store in the basement space much
cheaper?

17 Mr. Ceifets: Oh, yes. Certainly. If I had
18 a basement I could utilize my whole five thousand square
19 feet as sales and service area and keep all the non-
service departments in the basement and the storage
area in the basement.

20 Miss Hart: We have had a lot of conversation,
21 we have heard many deputations from various pharmacies
22 and from pharmacists. There seems to be one type of
23 pharmacy that virtually everyone has been down on, and
that is what we have been calling the H Factor, which
are the very large ones, fifteen thousand square feet
and over.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Mr. Ceifets: Yes.

Miss Hart: But I have not specifically asked the question before, are you concerned about, do you have a cut-off point in your mind, above which they should not be opened?

Mr. Ceifets: Do I have a cut-off point in my mind?

Miss Hart: In terms of square feet? Because we have to pick a number and it is an arbitrary number.

Mr. Ceifets: These huge, multi-discipline, discount stores, they have to be big. You are talking about twenty thousand square feet? I think the ones that are maybe fifteen thousand square feet are the just the initial ones. I do not think any of these huge discounters are going to open up stores of less than twenty thousand square feet at least. They do not concern me. I can compete with them because I can do things that they don't do. I can give service. I have been there for a long time.

My competition is not these discounters. The Hy & Zels, whatever you call them, they are not going to bother me. I can fight my battle with them by myself.

Miss Hart: So you do not really care whether they are open on Sunday too?

Mr. Ceifets: I have no moral judgment either way. I am not concerned with them. I am concerned that my pharmacy would have to close if I expanded, and I have to expand.

Miss Hart: One other question I want to ask you. You mentioned students and you must have students working for you on weekends?

Mr. Ceifets: I do.

Miss Hart: You may even have worked to put



1
2
3 yourself through school, as I did?

4 Mr. Ceifets: I did.

5 Miss Hart: I am sure most of us did, here.

6 Mr. Ceifets: Yes.

7 Miss Hart: We have heard deputations that it is
8 a bad thing that students have part-time jobs on weekends,
9 it is a bad thing for their educational opportunities.
10 Would you like to make a comment on that?

11 Mr. Ceifets: I insisted my children worked
12 while they went to school and I worked while I went to
13 school, and my employees, it is a little game I have
14 with them, if they don't do good in school they don't
15 work, and most of them, at least ninety per cent of them
16 have gone on to post-secondary education; and they come
17 back, and I have one doctor and another pharmacist and
18 a couple of lawyers, and it is a good feeling. I am
19 interested in continuing their education and we usually
20 have a rule that they can only work one night a week and
21 one day on weekends, and they alternate and for exams
22 there is no problem.

23 Miss Hart: Thank you.

24 Mr. Chairman: Could I ask you to get a little
25 closer to the microphone. We are recording this for
posterity.

Mr. Ceifets: Oh, okay.

Mr. Chairman: Mr. Philip.

Mr. Philip: Thank you, Mr. Chairman.

26 We have been looking at different pharmacies
27 and different areas of square footage. It seems to
28 some of us, that if you come in at the ten thousand
29 square foot area rather than five thousand, you eliminate



1
2
3 the grocery stores that are masquerading as drugstores
4 and while you may not be concerned about Hy & Zels,
5 believe me, grocery stores are concerned that if they
6 are closed, there should not be Hy & Zels selling meat
7 products and other things like that.

8 Does ten thousand square feet sound like a
9 reasonable figure to you? You mentioned seventy-five
10 hundred square feet, that would solve your problem?

11 Mr. Ceifets: Ten thousand is reasonable.
12 When I started off I have five thousand square feet in
13 1961 and that was considered huge. I guess maybe as
14 an independent it is still considered big.

15 But let us be honest, most pharmacies that open
16 now, are either part of chains or franchise operations,
17 and I guess most of them are over seventy-five hundred
18 square feet. I guess the Shopper's Store, their average
19 now is what, eight or nine or ten thousand square feet?
20 So I think over the next ten or fifteen years, ten
21 thousand square feet would not be considered unusual.

22 Mr. Philip: Do you service clientele from the
23 hospitals?

24 Mr. Ceifets: We have two hospitals in our area,
25 yes.

26 Mr. Philip: Is your area similar to some of
27 the testimonies that we have had, that the hospital
28 pharmacies are closed on Sundays?

29 Mr. Ceifets: To tell you the truth, I don't
30 know. I would suspect that Humber Memorial Hospital,
31 I would suspect it's pharmacy is not open on Sundays.
32 It is not a twenty-four hour pharmacy.

33 Mr. Philip: I know that the closest one to
34 Humber Memorial, which is the Etobicoke General, is not
35 open, nor is the one in the medical building beside it.

36 Mr. Ceifets: I would think only the major



1
2
3 teaching hospitals provide a twenty-four pharmacy service.
4 Especially for outpatients. I do not think, as a matter
5 of fact, that Humber Memorial provides medication at all
6 for emergency room patients and they do not fill
7 prescriptions outside of the hospital.

8 Mr. Philip: So is it safe to say that if
9 someone goes in an emergency to Humber Memorial, on a
10 Sunday -- and you cannot predict when you are going to
11 slip in bathtub or have an accident -- that they are
12 going to have to go to your pharmacy or one like you in
13 the area, and that you do get some business from the
14 hospital on Sunday?

15 Mr. Ceifets: On a Sunday, quite a bit.

16 Mr. Philip: Is it safe to say then, if the
17 Bill remains as it is, well, right now, you would be
18 okay, but if you did make your necessary expansion, that
19 those people, if they get injured on Sunday, would not
20 be able to or would find it difficult or would have to
21 go farther to get any kind of pharmacy?

22 Mr. Ceifets: I would say eighty per cent of
23 the pharmacies in the immediate area would be closed.

24 Mr. Philip: I know that is true of all of
25 those that are in the vicinity of the Etobicoke General
and I suspect it is probably true in your area?

Mr. Ceifets: It is.

Mr. Philip: Thank you very much for your
information.

Mr. Chairman: Thank you very much, Mr. Ceifets.
We appreciate your coming.

Mr. Ceifets: Thank you very much.

Mr. Chairman: The next deputation is Brenda
Hill. Be kind enough to have a seat and you have thirty



1
2
3 minutes. I think you were here when I gave my little
4 spiel. However, I will do it again. We are here to
5 listen to you and if you choose to use that time for
6 your brief, which we have not had, that is your prerogative.
7 If there is any time left over, I will divide it equally
8 among the three parties represented on this Committee.
9 So, if you would like to proceed.

10
11 Ms. Hill: Thank you. Good afternoon, ladies
12 and gentlemen.

13 I am here today because you are legislating
14 away my rights as a human being. As far as I am aware,
15 there is no one out there that believes the local option
16 will not lead to wide open Sunday shopping.

17 I believe the Retail Business Act is labour
18 legislation and should be under provincial control.

19 I believe the government's insistence on pushing
20 the matter on to the municipalities and ignoring the
21 valid objections presented, is a cop out.

22 I am disappointed in this government -- and I
23 helped to put it in power -- because they have so little
24 regard for the majority of retail owners, employees and
25 their families.

A uniform pause day is needed to allow the pause
day of retail workers to coincide with that of their
school age children, spouses and friends. If that line
sounds familiar, it should, because it is a direct
quote from the Attorney General, Ian Scott, when he
defended the conviction of a Sunday law breaker.

What is wrong with the judicial system, that
judges someone a law breaker one moment and then changes
the law to accommodate them, the next.

I am married to a small business owner. I have
a full-time job myself, but I spend a few evenings a week
in our store and all day Saturday. Our lives pretty well



Nethercut & Co. Ltd.

Toronto, Ontario

J-74

1
2
3 revolve around our business. We are very proud of it
4 and I am convinced the store is a success because it is
5 an owner-operated business.

6 We have several staff members, who have worked
7 for us for a number of years also. I think the reason
8 my husband is able to keep staff in an industry where
9 turn-over is very high, is because he never asks them
10 to do anything he would not do himself. He works right
11 alongside them until nine o'clock every night and of
12 course all day Saturdays.

13 I resigned myself long ago, if I wanted to see
14 him in the evenings, that I had better get down to the
15 store and pitch in too.

16 I am not complaining. That is what retail is
17 all about, long hours and six days of them.

18 Our staff would prefer not to work evenings
19 and holidays, but they know it is our busiest days and
20 they must be there. They take turns having on Saturday
21 a month off and they think it is great, because most
22 retail stores do not give their staff any Saturdays off
23 at all.

24 Our employees range from university age to
25 sixty-seven years old. They have told us that they
absolutely do not want to work on Sundays. Well, neither
do my husband or I.

What do you suggest we do to get employees for
the store on Sunday? Should we pull a few people in off
the street? It is hard enough to get help in stores as
it is.

When was the last time you walked through your
favourite mall? Did you notice all the Help Wanted
signs in the stores?

The small business owner must have a reliable
staff member in if we are forced to open on Sunday. It



1
2
3 would have to be someone we could trust with the keys,
4 to open the store and close it. To do the cash and
5 make a deposit. If the regular staff will not work, the
6 owner will be forced to, and what about the very small
7 retail owner who operates his or her own store on their
8 own? What do you suggest they do, if they do not have
9 any staff?

10
11 I would like to know who made us second class
12 citizens, dedicated to those who are lucky enough to
13 have Sunday as a day off.

14
15 When we first started our business nine years
16 ago, we knew we would be working six days a week. Now
17 the government plans on changing the terms we accepted
18 at that time.

19
20 The store owner that wishes to spend Sunday with
21 his family, will have no alternative but to sell his
22 business. I know we are seriously considering that right
23 now, if the local option is passed.

24
25 If you allow the local option, there will be
26 Sunday shopping. Sundays will become a busy day, but the
27 business won't be new business, it will be redistributed
28 from other days of the week, such as Mondays and Tuesdays.
29 We will need our most experienced staff on the busy days,
30 and our staff will either quit or resign themselves to
31 having one Saturday and one Sunday off a month, and you
32 can bet they won't be consecutive days. Their normal
33 days off will be Mondays, Tuesdays and Wednesdays.

34
35 Can you honestly tell me this situation will
36 not have a serious impact on the victims' families?

37
38 Let's take employees with school age children.
39 If the employee is off Monday and Tuesday, when will
40 they see their kids? How about people like our manager?
41 His wife works weekends too. They could for months
42 before they have a day off together.

43
44 What about the one-half of the retail work force
45
46



1
2
3 that are women? Many of these women are single mothers.
4 If you would like to visit our mall I will introduce
5 you to a few. They will tell you their stories and they
6 can ask you when will they see their kids?

7
8 Who is going to pay for the daycare? Who will
9 accept responsibility for the extra hours these children
10 are latchkey kids? Our teenagers are having a difficult
11 enough time, without taking parental guidance away
12 from them on their two days off from school. Sure, let's
13 give them another day to hang around the mall.

14
15 Why don't we ask the Scarborough Town Centre
16 owners how they feel about that?

17
18 Sunday shopping will take advantage of the
19 weakest and the most easily exploitable members of our
20 work force, women. Many are sole supporters of their
21 families and you ask them to stand up against their
22 employers and refuse to work on Sundays, for the sake
23 of their families and at the risk of their jobs?
24 Let's be realistic. I guarantee you there is no doubt
25 the retailers will get around any labour legislation you
put forth, because of the nature of our business. There
will be subtle pressures to conform, based on employees.

Sunday is the only day we all know we can get
together with our families, go on picnics, have the
whole crew over for dinner, celebrate birthdays, cut our
lawn, see our friends, go for a walk together.

I feel very angry that you stand in judgment of
our one very precious day off.

The worst month for retail is December. The
mall, and therefore our store, is open until ten o'clock
every night including Saturdays. Try to imagine what
it would be like, after putting in an exhausting twelve
and one-half hour days on your feet, to leave the store
at ten fifteen on Saturday night, to know that you will
be back again Sunday to do it all over.

The examples I have given on how Sunday shopping



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

will affect our lives and the lives of our employees, are not a few isolated cases. Our store is like any other store out there.

All retail workers will have problems finding time to be with their families. Our lives will be radically affected by this legislation. As elected officials you should be passing legislation to support and protect families. Not drive them apart.

We placed a petition on our counter at the store, it was against Sunday shopping, and I was really amazed at the number of people that signed that petition. They wanted to sign it. I did not even have to explain my feelings. They came and they signed and we sent thousands of names to Mr. Peterson. Obviously they were ignored.

Why is the government not listening to the people?

I have listened very carefully when Joan Smith defended her government's position. Her main point seems to be that there is problems with deciding on tourist designations in certain areas.

When you weigh that problem against all the negatives of having Sunday shopping, that point appears to trivial to me.

I understand that there are a number of legitimate concerns with the existing Retail Business Holidays Act. I would be pleased to work on a Committee that would devise a standard province-wide law which will satisfy consumers, workers, municipalities and the government.

Do not make Sundays just another day of the week. The quality of life for small retail owners and employees and their families is more important than the convenience of tourists. I plead with you, please do not do this to us.

Small retail owners and employees are not just



1
2
3 numbers out there. We are people just like you, and we
want Sundays off just like you. Thank you.

4 Mr. Chairman: Thank you very much. Six minutes
5 and twenty seconds per caucus. I think Mr. Philip will
6 go first and then Mrs. Cunningham and Mrs. Marland
sharing.

7 Mr. Philip: Thank you, Ms. Hill for an
interesting brief.

8 We have had a number of merchants appearing
9 before us, that have said the result of this legislation
10 will be increased prices, that it will cost them more
to remain open seven days than six days, and that there
11 is only so much that you can pay out in terms of salaries
and still sell your product at a certain price. So it
12 means either increased prices or poorer service, because
you are going to have employees that are working Thursday
13 nights and close down on Thursday night, and that has
happened in the past. Have you figured out, does this
14 mean an increase in the prices that you're going to have
to charge?

15 Ms. Hill: I'm sure it will, but I do not have
16 numbers.

17 Really, my major feelings about this is more
the impact on the families than the prices. I think it
18 is a fact of life, everybody is aware prices are going to
go up. I don't know much our particular store's is
going to go up, but it is obviously a fact of life.

19 Mr. Philip: I gather from the context of
20 your presentation that your store is in a mall, is it?

21 Ms. Hill: Yes, it is.

22 Mr. Philip: As you probably know, the malls,
23 the larger malls anyway, and The Bay are the ones that
are pushing for this. It seems as though everyone else
24 in the province is against it, that has appeared, but the
25



1
2
3 big malls and The Bay and the Liberal Party, of course,
4 are on the other side.

5 My question to you is this: What would happen
6 if you did not co-operate with the mall?

7 Ms. Hill: We did not open the Sunday after
8 Christmas, because we believed that it was not right and
9 we wanted to put our mouth where our dollars were, but
10 most of the stores in our mall are not owner-operated
11 stores, they are a chain store, and so they just forced
12 their employees to come in, they had no choice in the
13 matter, and nobody -- like, I walked through our mall
14 in advance, checking which stores were going to be open
15 and which were not going to be, on that Sunday, and I
16 never found one employee that said Oh, I'm looking forward
17 to being at work on Sunday; and, you know, there were a
18 few stores that closed, but the large majority of the mall
19 was open. But that is because they are not owner-operated
20 stores. They are chain stores.

21 Mr. Philip: What would happen if the mall,
22 in your opinion, decided to -- if this mall option
23 created the problem that it has created in New Brunswick,
24 where they are now reversing it after two years, or in
25 British Columbia, where they have failed to reverse it
and in fact most of the mainland is now wide open --
what happens when your lease comes up, if you did not
co-operate with the mall owners that say they want all
the stores open?

Ms. Hill: Just like employees. Subtle pressure.
The mall lease is so important to a businessman and the
chains do not really worry about it, because they have a
store in every mall and they would be good friends with
the mall owners. But the individual stores, they have
to be concerned, because your store is worth nothing if
you do not have a lease. I mean, the lease is so important
and to negotiate a good lease and to have it for a long
length of time, that is how you sell your store for a
good price, for starters and really, your store is only
the stock that you have in it, if you do not have a good



1
2
3 lease. So there would be subtle pressures from the mall
4 and this has been said before, I'm sure, by people here,
5 the malls will find a way to force the people out that
6 are not conforming with what they want.

7
8 Mr. Philip: So is it safe to say that when your
9 lease came up for renewal, you might find that the landlords
10 are not prepared to renew the lease or that your rent
11 could be tripled and you would be forced to leave?

12 Ms. Hill: Sure, sure. They might find someone
13 that wants to open on Sunday.

14
15 Mr. Philip: In terms of the morale of your
16 employees, my feeling from what I know of the business,
17 and you are obviously much more familiar with it, is
18 that a small store like yours, requires certain morale
19 and team spirit?

20 Ms. Hill: We are a family.

21 Mr. Philip: You are a family?

22 Ms. Hill: Yes.

23
24 Mr. Philip: What would happen if one employee
25 decided for whatever reason, because you were forced to
open, that they were not going to pull their weight?
How many employees do you have?

Ms. Hill: It varies, depending on the season.
Of course we run with more at Christmas, but usually
maybe five employees at a time.

Mr. Philip: So say one employee then decided
that for this or other reasons, maybe just the fact that
they did not have a babysitter or a daycare centre, that
they could not work on Sunday, you are not allowed under
this Act to fire them for that reason?

Ms. Hill: No.

Mr. Philip: What would the other employees do



1
2
3 in terms of the employee that was not sharing their
share of Sundays?

4 Ms. Hill: It is common sense, I mean, we all
5 pull our own weight around there and my husband I, we
6 take out the garbage and we do everything they do, and if
7 somebody is not pulling their weight, and that is what
8 everyone would consider, if that person took the day off.
9 I mean, nobody wants to work on Sunday, so if one person
says I'm not going to work and that is all there is to
it, and the rest of them say, Okay, Keith and Brenda will
be there on their own if we don't go in, so, come on,
we might as well go in, it isn't their fault, they tried.
Then that person is going to be ostracized.

10 Mr. Philip: Thank you.

11 Mr. Chairman: Mrs. Cunningham and then Mrs.
12 Marland sharing.

13 Mrs. Cunningham: Thank you, Mr. Chairman.

14 It is a pleasure to see you here this afternoon
15 with your enthusiasm and sincerity. Many of us share
your tremendous concern.

16 I am Dianne Cunningham. I was elected in
17 London on the 31st of March. The main issue in the bi-
election there was Sunday shopping and the extension of
it. So here I am.

18 I should tell you that this is the twenty-fourth
19 day of public hearing and you are the two hundred and
sixty-sixth person that has come before this Committee --

20 Mr. Philip: It seems more than twenty-four
21 days.

22 Mrs. Cunningham: It seems a lot longer, I agree
23 with you, Mr. Philip.

24 I would say, and I am being charitable with this
25



1
2
3 number, that nine have spoken in favour of the legislation
4 so far. My true number would be six, but to be charitable
5 I would have to say maybe nine, and we specifically asked
6 the question about the municipal option, Are you in favour
7 of it? We excluded the drugstores, because that was not
8 their main issue.

9
10 Ms. Hill: Yes.

11
12 Mrs. Cunningham: And there were two hundred
13 and eighteen, that is you, two hundred and eighteen that
14 have come here and publicly stated that they are against
15 the municipal option. So you are in the tremendous
16 majority and we are not running one to twenty, as has
17 been stated in the press. We are running one to thirty
18 and out of every thirty people that come, only one speaks
19 out in favour of this legislation. So you should feel
20 good about it.

21
22 What you should feel really rotten about is
23 this government is not listening, and the little problem
24 you talked about, we tried to deal with yesterday, the
25 very big problem for the government, according to them,
they could not define tourism. So yesterday we did try
to put that definition in perspective, in that we asked
over two hundred and three witnesses if they would assist
us, and they said they would. We tried to ask the
Committee if they would ask for this help in solving the
problem.

18 Ms. Hill: I would, for free.

19 Mrs. Cunningham: I know, and they said No,
20 that this legislation, there is some kind of rush around
21 it, we are not quite sure what it was, but Mr. Kantor
22 said that the Liberals have a more important public
23 agenda, and I guess I have to say that the quality-of-life
24 issue, such as this one, nothing could be more important.

25
26 So I can only thank you for coming and making
27 the points that you have made.

28 We will be interested to see what the big rush



28:jl

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

is about this, since we don't know who wants it, except the big mall owners. We do not know who is pushing it. We know it is coming from the Premier's office and we have no idea why my Liberal colleagues are having to take the stand they are taking. Being forced to take, I might add.

My colleague, Mrs. Marland, is going to ask you some questions with regards to your brief, but I sincerely thank you, Brenda, for taking the time from your busy schedule to be here and believing in democracy so far, to this point.

Mr. Chairman: Mrs. Marland.

Mrs. Marland: Mrs. Hill, I too would like to congratulate you on your presentation.

Although I am not a regular member of this Committee, unfortunately, I did however tour the province as a member of the Progressive Conservative Task Force two and a half years ago, that asked the public then, what they wondered about extending shopping hours. They said the same thing then, that they have in the past twenty-four days, which is that they do not want it in the province, and I too share the regret that although we have a government that campaigned on one theme last August, your description in here, of I think you used the word -- well, when you made the comment about second class citizens who are there to cater enough for those lucky enough to have the day off. I am sure that you feel betrayed with this government by its huge mandate from the people, the same people that it now chooses to ignore; and the only good news about that, of course, is that this government won't have ninety-four seats after the next election, because the public is not stupid.

Ms. Hill: And I will do my damndest to make sure that they won't be, too.

Mrs. Marland: I'm sure you will, and that is why I am so impressed, as someone who has not heard all



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the briefs over the twenty-four days, but did hear them two and a half years ago, of all the presentations that I heard then and now, you do have the greatest passion and commitment and it is really commendable to have you here today in the format in which you present yourself. You really are -- and obviously, if you have been up and down the mall before Christmas, you are obviously a person who is very sincere about it.

Can I just ask you quickly: You mentioned about submitting your petition?

Ms. Hill: Yes.

Mrs. Marland: Who is your M.P.P.?

Ms. Hill: I just moved into Etobicoke.

Mrs. Marland: You are in Etobicoke?

Ms. Hill: I am south of Eglinton.

Mrs. Marland: That is probably Linda LeBorde then?

Ms. Hill: Yes.

Mrs. Marland: Where is your mall?

Ms. Hill: It is in the west end.

Mrs. Marland: Did you present your petition to your M.P.P.?

Ms. Hill: No. We mailed it directly to Mr. Peterson.

Mrs. Marland: Was it acknowledged?

Ms. Hill: No.

Mrs. Marland: It was not even acknowledged?



1

2

3

Ms. Hill: No.

4

Mrs. Marland: From the Premier's office?

5

Ms. Hill: No.

6

Mrs. Marland: Isn't that beautiful?

7

Ms. Hill: It is disgusting.

8

Mr. Ballinger: (Inaudible)

9

10

Mrs. Marland: It is sickening, that is what it is, that the Premier with all of his multi-million staff, that the Premier's office was not acknowledging these petitions. That is even more disgusting.

11

12

13

14

15

I am wondering if, and, you know, you refer to something that is terribly important, when you talk about the most easily exploited members of our work force, knowing how many women are in the retail trade. You must feel very passionately about that, too, because you bring that into this argument. Is that something you have faced personally with your canvass of your own mall?

16

17

18

Ms. Hill: Yes. Because I know a lot of people that work in the mall, we have been in the mall for six years now, so you get to know the staff that are there for a long time, and we certainly have single mothers working for us, also.

19

Mrs. Marland: Thank you, Mrs. Hill, very much.

20

Mr. Chairman: Mr. Kantor.

21

22

Mr. Kantor: I am just wondering if I might ask the deputant, I have been looking at your brief, you have suggested that in your view Sundays will become a busy shopping day?

23

24

25

Ms. Hill: Yes.



1
2
3 Mr. Kantor: I presume that could only occur
4 if the members of the public went out shopped? It would
5 obviously take more than just mall owners to make it
6 a successful shopping day?

7 But yet later on in your brief, you state that
8 in your particular situation, you put a petition on your
9 counter and thousands of signatures were collected and
10 people signed eagerly? In your opinion, are there some
11 consumers, a substantial number, that want Sunday shopping
12 or are they by and large opposed?

13 Ms. Hill: No, but if it is there, they are
14 going to shop. If the stores are open, they are going
15 to shop on Sunday; right? That is fact.

16 Mr. Kantor: I am a little confused then. The
17 people that signed a petition, saying they were against
18 Sunday shopping?

19 Ms. Hill: Saying they were against Sunday
20 shopping and they told me that.

21 Mr. Kantor: You are suggesting that they won't
22 do it?

23 Ms. Hill: I hope they don't. I hope people
24 have the strength of their convictions. Because I won't
25 shop on Sunday, and I certainly hope they feel the same
way I do. I don't know that they will, but I certainly
hope that everyone that signs their name, will not shop
on Sunday.

But let's be realistic, probably a portion of
them will shop on Sunday. They told me that they have
a son, or daughter, that goes to university, or high
school, and they want them home on Sunday, they want to
have a family dinner, and I think that is a great reason
to sign a petition. But, like, they all had some way
their lives would be touched. I did not have to say
anything. Just when they are paying their cash, they see
this and Oh, I am against Sunday shopping, and the same



1
2
3 with the next person behind them. It made me feel so
4 great. I thought there were people who would want me
5 to work on Sundays and make me a second class citizen,
6 but there are lots of people out there that do not want
7 Sunday shopping and they do not think it is necessary.

8 Mr. Kantor: But what I hear you saying is
9 there may be more people who say they don't want it,
10 but some of the people that say they don't want it, might
11 actually --

12 Ms. Hill: -- go shopping. If the stores are
13 open, let's face it, let's be realistic.

14 Mr. Kantor: I just wanted to see what you had
15 to say. Okay. I take it your store is located in the
16 west end of Metro Toronto?

17 Ms. Hill: Yes.

18 Mr. Kantor: You are familiar with the outlines
19 of the law that no single municipality, Etobicoke for
20 example, could unilaterally decide to open a few or some
21 or all of its stores any part of the year, without the
22 agreement of all of Metro Toronto Council; are you familiar
23 with how that law works?

24 Ms. Hill: Yes.

25 Mr. Kantor: Similarly, no community in --
Peel I guess is located to the west of Metro, in that
area?

Ms. Hill: Yes.

Mr. Kantor: And no community could open without
all of Peel Councils' agreement and they are on the record
as being opposed to Sunday shopping; you are aware of
that?

Ms. Hill: Yes.

Mr. Kantor: I would like to pursue one of the



1
2
3 last parts of your brief and that concerns the tourist
4 definition, which Mrs. Cunningham has been working very
5 hard on and I am not going to castigate her for not
6 being here, she has been a very diligent member of this
7 Committee and she has worked very hard to try and suggest
8 that the definition of tourism is --

9
10 Mrs. Marland: (Inaudible)

11 Mr. Kantor: No, I am saying she has been a
12 very diligent member of the Committee, she has attended
13 very consistently and I was complimenting her, Margaret,
14 I really was. I appreciate her efforts to try and find
15 a definition of tourism.

16 If we were able to do that, and there is a lot
17 of very diverse interests involved, the interests of
18 retailers may differ from those of very large labour
19 unions or church groups or Tourism Ontario, but even if
20 you were able to come up with a definition of tourism,
21 how would it be implemented? What would the process be?
22 How would you get other people, perhaps other retailers,
23 besides yourselves, involved in the process? Should
24 people have the right to go to a meeting, a public meeting?
25 Would you want to impose the same rules on Metro Toronto
as North Bay or Kenora? How would you do it? Let's
suppose you have a definition? How would you put it into
effect?

17 Ms. Hill: I think we should have province-
18 wide legislation. I do not think it should be up to every
19 different municipality, because then you have eight
20 hundred different ways of doing things.

21 I mean, we have some problems now with the law
22 as it stands, but it is law, and I think it just needs
23 a bit of a tune-up and, you know, the law is to be
24 followed and if we do not follow it, it is chaos. I
25 mean, I don't understand what you want?

26 Mr. Kantor: Let me try and rephrase my question,
27 because it is not as clear as it might have been.

28 You may have the opportunity to take short



1
2
3 holidays? Summer? Winter? I know retailers work very
4 hard, but let us suppose you might take a long weekend
5 in Muskoka or Niagara Falls or go to the Stratford
6 Festival, something like that. Would you see the
7 possibility of there being some differences in what
8 be open in the Muskoka area in the summer, or Stratford
9 during the Stratford Festival, or perhaps Chinatown in
10 downtown Toronto? Do you think there might be any
11 room for differences?

12
13 Ms. Hill: We have tourist designated areas at
14 the moment, and to me they are getting a little out of
15 hand and that is obviously the problem.

16
17 To me, Niagara Falls is a tourist area, and
18 even Niagara-On-The-Lake very possibly, too. But if you
19 were to say to me Would you prefer there was Sunday
20 shopping or absolutely no Sunday shopping, I would go
21 with absolutely no Sunday shopping.

22
23 Mr. Kantor: I appreciate that, but your second
24 position might be for some variation?

25
26 Ms. Hill: Sure. I am willing to. I am
27 very flexible. I would like to see a law that is fair
28 for everyone and one that takes families into account,
29 and that is really I would like.

30
31 Mr. Chairman: Thank you Mrs. Hill, for coming
32 and sharing your views with us. We appreciate it.

33
34 The next deputation is Landscape Ontario, Mr.
35 Thiebaud, and you are his counsel, Mr. Theodore Saskin?

36
37 Mr. Saskin: Yes.

38
39 Mr. Chairman: With the law firm of Goodman &
40 Goodman, is that right?

41
42 Mr. Saskin: Yes.

43
44 Mr. Chairman: Is this the gentleman here?



1
2
3 Mr. Thiebaud, would you come forward, please. Would you
4 be good enough to have a seat, please. We already have
5 you identified for Hansard. You have thirty minutes, it
6 is your time and you can use all of that time, if you
7 wish, to give your presentation. If there is time left
over, however, we will allocate it equally amongst the
three parties, to ask questions, to make statements, to
interject or whatever. Oh, not interject. You go ahead,
Mr. Thiebaud.

8 Mr. Thiebaud: Thank you. Mr. Chairman, my
9 name is Mark Thiebaud and I am a professional member of
10 the Ontario Association of Landscape Architects and I
am the past president of Landscape Ontario, an association
for horticulture in the Province of Ontario and I serve as
their current legislation chairman.

11 I have a submission to your Standing Committee
12 today.

13 Our association, the Landscape Ontario
14 Horticultural Trades Association, known as Landscape
15 Ontario, is the trade association representing nursery
growers, garden centres, landscape contractors, lawn
care operators and sprayers.

16 We were formed in 1973 through an amalgamation
17 of associations, the Ontario Garden Maintenance and
Landscape Association, the Ontario Landscape Contractors
Association and the Ontario Nursery Trades Association.

18 The current membership of Landscape Ontario
19 exceeds eight hundred firms and individuals, representing
20 over fifty thousand employees in Ontario, and I should
21 point out that is only the current membership of the
22 association. That is not the people that are doing this
type of business in the Province of Ontario, which
exceeds obviously that number of firms. We believe there
is approximately two thousand firms doing this type of
business in Ontario.

23 Landscape Ontario is dedicated to promoting,
24
25



1
2
3 developing, expanding and improving the landscape/nursey
4 industry. Through the education of government, the
5 public, and its members, we strive to maintain the highest
6 professional standards for our industry.

7 The Ontario nursery industry dates back to the
8 early 1800s beginning in the Niagara Peninsula with
9 fruit tree production by Fonthill Nurseries. Our industry
10 was dominated during the late 1800s and the early 1900s
11 by Fonthill Nurseries and E.D. Smith in similar
12 production. With the turn of the century, prosperity
13 brought about a number of small family operated nurseries,
14 growing ornamental plants close to the major cities.

15 Today our nursery industry consists of over
16 two hundred and thirty-one registered nurseries, occupying
17 over 34,217 acres, spread across the province from
18 Windsor through to Ottawa. A variety of climatic zones
19 allows us to produce from very hardy species along the
20 north shores of Lake Erie and Ontario, to the more
21 difficult tender varieties being grown in the Niagara
22 Peninsula. Ontario has long been recognized worldwide
23 for their many introductions of fruit and ornamental
24 horticulture.

25 The retail sale of nursery products has undergone
tremendous expansion through the 20th century. In the
early 1940s nursery operators began to sell their
products by mail order. In the late 1950s and the
early 1960s the garden centre concept arose where
customers would attend at retail outlets to purchase
gardening products. When the nursery industry originally
developed these garden centres were simply shacks which
were closed during the winter months and open only during
the summer months.

The first retail garden centres emerged in
Ontario in the 1950s as garden centres were developing
throughout North America. They all sold similar
product lines, nursery stock, flowers, tropical plants,
indoor gardening and other related accessories.

Over the last twenty-five years we have witnessed



1 a tremendous expansion in the retail sector for gardening
2 products. Gardening has become both an important part
3 of home decorating and an important leisure activity for
our customers.

4 In order to respond to the tremendous increase
5 demand from our customers, large retail garden centres
6 were constructed in the early 1960s. With the financial
7 commitment that was required for these garden centres,
8 year round retail sales became essential. Through the
winter months larger emphasis was placed on indoor
gardening and the garden centres were able to keep their
staff employed and stores open with the development of
indoor gardening products.

9 Now we come to Sunday.

10 Most garden centre throughout Ontario have
11 always been open on Sunday and I emphasize always been
open on Sunday. Sunday sales are important to retail
garden centres for a number of reasons.

12 First of all, perishable products. Our garden
13 centres sell many perishable products which must be
14 planted immediately after purchase. For example, one
15 cannot buy a plant on a Tuesday evening and wait until
16 the weekend to plant it. Since many of our customers
work during the week, they only have weekends available
to shop and do their planting. For our customers who
work on Saturday, Sunday is the only day open to them
to do their gardening.

17 Another issue related to the perishability of
18 the products we sell is advice that is offered by our
19 staff relating to plant disease, et cetera. On a Sunday,
20 many of our customers will attend to obtain advice about
21 their plants and plant disease curtailment or prevention.
This is something that in many instances must be attended
to at the time such problems arise and if we were not
open on Sunday to offer such advice the effect on our
customers' gardens may well be devastating.

22 Secondly, the short selling season. As business
23 owners, we would love to have ourselves spread evenly
24 throughout the year. The reality, however, is that our
25



1
2
3 climate allows us a very short selling season. It is
4 therefore important for us to make as many sales as
possible on Saturday and Sunday during those crucial
planting weekends.

5 Third, daylight hours. There are limited
6 daylight hours during the summer months and our stores
7 are only able to stay open during daylight hours since
8 outdoor viewing is an important part of our sales. It
9 is noteworthy that in the United States one of the main
10 reasons for switching to daylight savings time was as
11 a result of efforts by American garden centres to increase
the amount of time they could stay open and sell
gardening products and, as you well know, the time was
changed this year in early spring, which allowed us
three weeks earlier, in April, and one week later in
the Fall. This underlines the important role played
by garden centres in our society.

12 The most significant selling day. We understand
13 that other groups appearing before this Honourable
14 Committee has suggested that Sunday sales represent a
15 slicing of the pie into seven parts rather than six.
16 This theory is not at all applicable to our industry
since sales we lose on Sunday could not be made up on
other days. To put it simply, rather than dividing
our pie into six parts, we would be losing the most
significant portion of our pie.

17 Leisure time activity. Gardening and the
18 purchase of gardening supplies on the Sunday is an
important leisure time activity for our customers.

19 According to the 1985 Gallup Organization's
20 Audit of Leisure and Sports Activity, gardening ranked
21 as the number one outdoor leisure time activity of
22 American households, higher than swimming, fishing,
23 bicycling, jogging and thirty-six other forms measured.
The National Gardening Association in the United States
reports that seventy-eight per cent of America's
households garden.

24 In a cover story article released on June 20,
25



1
2
3 1988, Time Magazine described the tremendous growth
4 of the gardening industry throughout the United States
5 and, in particular, the importance of gardening as a
6 leisure activity. According to Time, throughout the
7 1970s the average gardener was over fifty years of age.
Recent surveys suggest, however, that the new converts
to gardening are between thirty and forty-nine years
of age and that these baby boomers are also becoming
avid gardeners.

8 An hour or two in the yard is often a fine
9 time for one's mental and physical well-being at the
10 end of a day of deadlines, schedules and stress. This,
11 in part, explains the tremendous increase in the popularity
12 of gardening as well as the reason gardening has become
13 such an important leisure time activity. We understand
that one of the objectives of the R.B.H.A. is to permit
leisurely pursuits on Sunday. We believe that our
industry serves this objective well by remaining open
on Sunday and allowing our customers an opportunity to
carry out their gardening.

14 Our customers. The fact that approximately
15 thirty per cent of garden centre sales take place on
16 a Sunday confirms the importance of Sunday shopping to
our customers. There are a number of reasons for this.

17 One. A growing number of our customers are
18 from double income families and are only to do their
19 gardening on weekends. For many of our customers Sunday
20 is the only day available to them for their gardening
21 purchases and gardening activity.

22 Two. Gardening often involves a major
23 purchase for the household which will require several
24 hours to plan and carry through. Unfortunately, given
25 the hectic society we live in today, our customers
do not have the time during the week to devote to
gardening and they rely on Sunday as the day on which
to make these major purchases.

Our employees. Many of our employees enjoy



1
2
3 the part-time that is available to them on Sunday.
4 Throughout the years and throughout this Province thousands
5 of students have worked for garden centres on Sunday.
6 These students have often paid their way through high
7 school and college by working at a garden centre on
8 Sunday and we believe it is an excellent experience for
9 them.

10 Our garden centres have never had any difficulty
11 finding employees who enjoy working on Sunday and in no
12 instance have we heard of employees being forced to work
13 on Sunday. From the employee perspective, our employees
14 strongly endorse our remaining open on Sundays. In fact,
15 if garden centres were closed on Sunday there would be
16 a tremendous loss of employment to the many part-time
17 workers who are employed at our retail garden centres.

18 Our current position under the Retail Business
19 Holidays Act.

20 Section 3(3)(b) of the RBHA provide an exemption
21 for our members to sell nursery stock or flowers, and in
22 conjunction therewith, accessory gardening supplies on
23 Sundays and other holidays.

24 We believe this exemption recognizes the
25 factors outlined above and is consistent with the
objective of promoting leisure, family and other home
related activities.

It is important to recognize that the passage
of the RBHA did not result in a change to our business.
Rather, it recognized our need to stay open and provided
the necessary exemption for us to continue to do so.

It is significant that garden centres have not
taken advantage of this exemption while other retail
businesses arguably have. When the Honourable Joan
Smith introduced Bill 113 in April of 1988, she referred
to many of the abuses under the RBHA, such as department
stores billing themselves as drugstores, stores roping
off and barricading to meet size regulations, ill-defined



1 tourist designations, and stated that the proposed
2 legislation is designed to deal with the number of
3 perceived abuses.

4 We therefore wish to emphasize that our
5 members have not changed or expanded their product lines
6 to take advantage of the exemption for Sunday sales.
7 Other than the natural evolution of any product line
8 overtime, our retail garden centres sell the same general
9 product line that was sold on Sunday before the RBHA
10 came into force in 1976.

11 Our position with respect to the proposed
12 changes to the RBHA.

RKK:jl 13 We acknowledge that our exemption for nursery
14 stock and flowers and in conjunction therewith, accessory
15 gardening supplies has not been changed and we are
16 supportive of the status quo with respect to our exemption.

17 However, the local option, as presently framed,
18 causes us serious concern for a number of reasons.

19 One. We believe that a large percentage of
20 people who would vote against widespread Sunday shopping
21 would still support the right of our members to keep
22 garden centres open on Sunday. However, garden centres
23 which have always stayed open on Sunday may be dragged
24 into a municipal debate over Sunday shopping in which
25 positions become polarized and the result can be either
wide open Sunday shopping or complete closure of all
businesses. In other words, our industry can get caught
in a political debate which loses sight of the exemptions
given to garden centres and our position may be overlooked
if a municipality is forced to consider the issue of
Sunday shopping on an all or nothing basis.

Two. Tremendous uncertainty is introduced
since the debate over Sunday shopping can be renewed
after each municipal election and be directly affected
by discussions and decisions taken in neighbouring
municipalities.

Three. There is potential is disastrous



1
2
3 economic circumstances for some of our members. For
4 example, if a competitor in a neighbouring municipality
5 can stay open on a Sunday while a certain garden centre
6 is forced to close, this can result in a tremendous
7 loss of sales which will jeopardize the livelihood of
8 the garden centre forced to close. This is especially
9 so where, on average, thirty per cent of sales occur on
10 a Sunday and we want to emphasize the thirty per cent
11 of the sales that occur on Sunday, as compared to thirty
12 per cent on Saturday and thirty per cent for the rest
13 of the week.

14
15 Four. A number of our members have made large
16 capital investments in their stores with the knowledge
17 that they can operate on Sunday. We believe it is
18 significant that the tremendous growth in our industry
19 has taken place during a period of time in which our
20 stores have always been open on Sunday. If they were
21 to lose thirty per cent of their weekly sales by having
22 to close on Sunday this would clearly jeopardize their
23 ability to operate profitably.

24 Our recommendations.

25 It is our respectful submission that the local
option should be exercised in only a positive way to
allow a municipality to expand Sunday shopping. The
local option should not be used in a negative way to
close down those sectors of our retail industry which
have always been open as a result of exemptions under
the RBHA. In this regard, we require the protection of
the Province of Ontario to ensure that our interests
and the interests of our customers are protected.

Garden centres and other businesses which have
historically been allowed to open on Sundays should be
protected from the possibility of a municipality closing
down all retail businesses in their area on Sunday or
any other designated holiday. We therefore recommend
that the local option should not be allowed to override
the exemptions set out in Section 3 of the Act. We
suggest that Section 4(1) of Bill 113 be amended to delete



1
2
3 any reference to Section 3 so that it is clear that a
4 municipality cannot overrule the exemption given to our
5 industry in Section 3(3)(b). Thank you.

6 Mr. Chairman: Thank you very much. Fifteen
7 minutes left. Five minutes to each caucus. Mr. Philip.

8 Mr. Philip: I find it interesting as I go
9 around the province, businessmen that are in favour of
10 having their stores closed on Sunday are against this
11 legislation, and some people that are in favour of
12 their stores remaining open on Sunday are also against
13 this legislation. It is just bad legislation.

14 My question to you is that if we were to
15 move the amendment that you suggested, then it would
16 also be consistent in your mind to also move amendments
17 stating that businesses that have historically remained
18 closed on Sunday, should also remained closed on Sunday?
19 Would that be the logical balance to what you are
20 asking?

21 Mr. Thiebaud: I think I can only speak for
22 the horticultural industry and garden centres. I really
23 cannot speak for businesses that have always been closed
24 on Sunday and I can only speak for our industry. We
25 have always, even before the Act, been open on Sunday and
never been closed.

26 Mr. Philip: May I ask you, I gather that you
27 are not just a representative of the industry, but you
28 also run or own a gardening centre yourself?

29 Mr. Thiebaud: I operate a multi-faceted
30 company. We have two garden centres, a gift shop, a
31 large landscape contracting business, a grounds
32 maintenance division and nursery and all of other
33 sorts of things that a landscape architectural service
34 provides. So I am involved in the entire industry.

35 Mr. Philip: Can you tell me this: In your
own garden business then, or businesses, the two of them,



1
2
3 what percentage of your retail sales on Sunday would be
4 things that would be competitive with stores that are
5 forced to close on Sunday; in other words, lawn furniture,
6 hardware and that kind of thing? Or perhaps the
7 reverse, what percentage would be directly flowers and
8 insecticides and that sort of thing?

9 Mr. Thiebaud: I think first we should qualify
10 the whole question, because garden centres do not sell
11 such things as garden furniture and things like that.
12 In fact, if you went around the province and counted all
13 the garden centres, probably sixty per cent of all garden
14 centres do not handle garden furniture. But, if it
15 were the situation where a store did handle garden
16 furniture, and we have a store like that, I would say
17 the sale of nursery stock, bedding plants and directly
18 related items to gardening, would make up on a Sunday
19 approximately eight-five per cent to ninety per cent of
20 our sales.

21 Mr. Philip: So you would much in the same
22 position as what the drugstores are asking for? They
23 are saying that the majority of their business is
24 directly related to their business and not products that
25 would normally be sold in other stores and therefore they
have historically been open on Sunday?

26 Mr. Thiebaud: Yes.

27 Mr. Philip: So "we should remain open"?

28 Mr. Thiebaud: Yes.

29 Mr. Philip: I guess that is all the questions
30 I have for you. Thank you very much.

31 Mr. Chairman: Thank you, Mr. Philip. Mr.
32 Sola?

33 Mr. Sola: Thank you, Mr. Chairman. On page
34 6 of your brief, your second point, I find a little
35 amusing: "Tremendous uncertainty is introduced since
the debate over Sunday shopping can be renewed after each



1
2
3 municipal election and be directly affected by discussions
and decisions taken in neighbouring municipalities."

4 Mr. Thiebaud: Where is that?

5 Mr. Sola: Page 6, your second point, the local
6 option.

7 Mr. Thiebaud: Yes.

8 Mr. Sola: Could you expand on that? Are you
suggesting a domino effect in reverse?

9 Mr. Thiebaud: What we are suggesting here is
10 yes, if you leave it to the municipalities, you are
allowing a municipal bylaw to come into effect, which
11 the municipality is going to put into effect, and with
the change of Municipal Council, they could reverse
12 that entire situation every four years, if they wished
to do so.

13 Mr. Sola: That is in one municipality, but
14 you are saying that may be affected by discussions and
decisions taken in neighbouring municipalities? What
15 I am suggesting, on this Committee we have heard time
and again, that these decisions will lead inevitable
16 open Sundays, because the next municipality is always
taken to be the bad guy who will be the first domino
17 to fall to open Sundays.

18 If I understand this point correctly, you are
19 suggesting that it can also work in reverse, if the
neighbouring municipality will close, that will affect
the open municipality; is that what you are getting at?

20 Mr. Thiebaud: Yes. I am suggesting that if
21 that has an effect on the other municipality and after
a certain amount of time they think that was a better
22 deal, why couldn't it happen in the reverse? If one
was open and one was closed, and the next time around,
23 I like what they do over there and why don't we close
as well? So it could happen both ways.

24

25



1
2
3 Mr. Sola: I congratulate you, sir. You are
4 the first person to come up with reverse domino theory.
5 Thank you.

6 Mr. Chairman: Mrs. Marland.

7 Mrs. Marland: Thank you, Mr. Chairman. Mr.
8 Chairman, through you, you mentioned the number of
9 registered nurseries, Mr. Thiebaud, and the amount of
10 acreage. I do not think you mentioned a ballpark
11 figure of employees? Have you any idea? It doesn't
12 matter if you don't have.

13 Mr. Thiebaud: In the retail end of it?

14 Mrs. Marland: Yes.

15 Mr. Thiebaud: Garden nurseries? We have not
16 exactly had a study on that, but I can give you an idea
17 of some of our majors, which you probably would be
18 familiar with, in this area, such as White Rose Nurseries,
19 being strictly retailers.

20 Mrs. Marland: Yes.

21 Mr. Thiebaud: They employ a thousand people.
22 That is just White Rose, in retail only. I would suggest
23 Seridan Nurseries, another retailer, would probably
24 employ half of that. Weall & Cullen, another major
25 we are familiar with, would probably employ about a
thousand people, and that is all right round here in
the Golden Horseshoe and strictly related to retail.
They are the majors and then there are a lot of independents.
So there is great numbers involved here.

26 Mrs. Marland: Well, I must tell you, Mr.
27 Thiebaud, I find it interesting that my colleague from
28 the Liberal government picked you up on your point about
29 the fact that municipal elections can change and change
30 and change under the local option issue, because in fact
31 that is a tremendously valid point in your presentation.
32 I guess I should not be surprised that one of my Liberal



1
2
3 colleagues failed to understand the point that you were
4 making.

5 The fact is that if you are in the nursery
6 garden centre business, you are making a tremendous
7 investment in order to get into business and you could
8 not afford three years later, with a change in municipal
9 Council to risk a change in the local option legislation
affecting your business. I mean, we would end up that
people simply could not afford to make investments in
businesses at the risk of the whim of a municipal Council
under the local option clause, and I think you make a
very valid point very well.

10 I just wondered how you feel, and the people
11 in your industry feel, about the fact that the Liberal
12 government of Ontario is ignoring you, the very fact
13 that they ignore the exemption that exists for your
14 industry in the current legislation, which was recognized
by the former government and obviously recognized for
very good reason. How do you feel today, Mr. Thiebaud,
about being ignored with new legislation by your current
government?

15 Mr. Thiebaud: I think in the brief it states
16 that --

17 Mr. Ballinger: (Inaudible)

18 Mr. Thiebaud: -- we have always been able to
19 do what we do under the Act, we have never been closed
on Sundays, and even prior to the Act. All we would
like to have is the same privilege to keep on doing
what we have always been doing.

20 I do not think we are in the same kind of
21 situation, where there are larger people trying to open
22 in our type of business on Sundays. We are all open
23 on Sundays now. So we do not want to be different. We
just need to do what we do and what really hits home in
this situation, after we did our survey, was the fact
that you cannot replace the business we do on Sunday.

24

25



1
2
3 You cannot replace daylight hours. We are in the type
4 of business, I don't care what we do, we cannot --
5 you might be able to get back maybe twenty-five per cent
6 of that business on Sunday, by just putting more
7 cash registers in, by doing everything you do, but we do
8 fifty per cent of our annual sales in three months and
9 do the other fifty per cent in the other months, and we
10 have to use every daylight hour that is available to us.

11 Mrs. Marland: Of course, and when you say that
12 you do thirty per cent of your business on Sunday, and
13 the very fact that your business has been recognized as
14 an exemption before, it was not something that was
15 recognized because there wasn't a need that existed, but
16 what I am saying is wouldn't you have thought that a
17 government with half a brain, would have come up with
18 new legislation that would have looked at every aspect
19 of new legislation versus the existing legislation, and
20 recognized that if there were exemptions at one time,
21 perhaps they might have been worth a little consideration
22 for the numbers of people, who are not only in your
23 industry, but the numbers of people in this province who
24 benefit from your industry, and the fact that you were
25 given an exemption is because the people of Ontario want
to be able to go to their garden centres on Sunday; and
there again, the choice of the people of Ontario is being
taken away by this government and the choice of people
of Ontario who do not want Sunday shopping per se, but
who have had difficulty with the garden centres as in
the current legislation, means again, I suppose, that
this government does not have an open government policy,
where they want to hear from the people of the province,
it simply does not exist, and I think your brief today
makes that point very well and very clearly. It is
unfortunate, of course, that nobody is listening or
cares; and if they did listen and if they did care, you
would not need to be here today, would you?

22 Mr. Thiebaud: I cannot comment on the government.
23 I can comment that we do not have a problem being open
24 on Sundays as an industry.

24 I can comment on the fact that the consumer is
25



1
2
3 probably the one that is going to be let down, as much
4 as the garden centre that has invested all this money,
5 because we cannot possibly serve the people we are
6 serving, unless we make our parking lots twice as big
7 on Saturday and, you know, we just can't do all the
8 things that we do now, if we are closed on Sundays, in
9 our industry. It is a very seasonal type of industry
10 and, of course, it should be noted that the seven days
11 a week opening that we enjoy, we do have busy times,
12 but in the off times we sell indoor gardening products,
13 which we all enjoy, on Sundays. We do tropicals and
14 we do foilage plants and we do things which people
15 enjoy in the other times of the year, in the doldrums
16 of winter, and basically people love doing that on
17 Sundays and we always had the privilege to do it.

18 Mrs. Marland: Yes. Thank you, Mr. Thiebaud.
19 Thank you, Mr. Chairman.

20 Mr. Chairman: Thank you, Mrs. Marland.
21 I was going to say it is a growth industry.

22 Mr. Thiebaud: That's right.

23 Mr. Chairman: We appreciate you coming before
24 us and it is presentations like yours, that make these
25 committees really worthwhile. Thank you for coming and
26 sharing your views with us.

27 Mr. Thiebaud: Thank you.

28 Mr. Chairman: The next deputation is Mr. David
29 Barr. Is David Barr here?

30 Mr. Ballinger: (Inaudible)

31 Mrs. Marland: (Inaudible)

32 Mrs. Cunningham: (Inaudible)

33 Mr. Philip: (Inaudible)

34 Mr. Chairman: Let's hold it down here, if we
35



1
2
3 can hold it down and welcome Mr. Barr. Thank you for
4 coming, we welcome you and we are here to listen to you.
5 You have thirty minutes, and if you choose to use that
6 in its entirety for your presentation, please feel free
7 to do so. If you don't, there will be questions from
8 the various members of the various parties and I will
9 divide that time equally amongst the parties. So if you
10 would like to proceed.

11 Mr. Barr: Thank you very much, Mr. Chairman.

12 My name is David Barr. I am a recently retired
13 elementary school principal from Etobicoke, retired in
14 June.

15 Back in my career I spent twelve years in
16 industry, the Royal Bank, and I have been an elementary
17 school teacher, vice-principal, principal. I have
18 taught at the secondary school level, I have been a
19 secondary school guidance counsellor. I have been
20 the guidance consultant for the Etobicoke Board of
21 Education. I have lectured at the university level.

22 I have five children and I appreciate very much
23 this opportunity to pass on my comments in connection
24 with the Sunday shopping issue.

25 I feel that an open Sunday with a municipal
option will have a detrimental effect on family life.
I think it is going to give our parents who have to
work, less time with the children.

I have taught thousands of children in my
educational career. I have taught many well adjusted
kids and kids who have done well in the system.

However, we do have some children who have some
real problems, and if I might just quote a report, perhaps
some of you are aware of the CELDIC Report, written a
few years ago, and it is quoted in this book by Dr. Harold
Minden. Dr. Minden is Associate Professor Psychology
at York University, he has been a consultant for Sports



1
2
3 Canada, Fitness Canada, the CBC radio, and he makes
4 reference to the CELDIC Report and I would just like
5 to quote this section. For three years a group of
6 professionals toured the country and came out with this
7 very exhaustive report, which really has given people
8 in the education field and the health field a great deal
9 of cause for concern.

10 They reported, and I am quoting: "Twenty-one
11 per cent of the population, twenty-one per cent up to
12 nineteen years of age, or no less than one million
13 children -- and multiply this by ten to arrive at the
14 U.S. equivalent -- in Canada required attention,
15 treatment and care, because of emotional, behavioural
16 and learning disorders."

17 We do have many children who have special needs.

18 Not all of the responsibility, of course, for
19 the problem rests on parents' shoulders.

20 We do know that we have children with learning
21 disabilities. We have children with problems with regard
22 to hypertension. We have children with intellectual
23 limitations.

24 We as educators in the past sometimes have done
25 a poor job in meeting the needs of children.

Here is the essence of the problem as I see
it, and that is that the absentee parent is going to
exacerbate the problem.

Now, I know you have heard, I'm sure you have
had reference made to the restrictions on the rights of
those who wish to open on Sunday. I recognize that this
is so, but this is not unusual.

I am sure there are people who have, and I
know there are people, who have resisted having to do
up their seatbelt. They feel this is an infringement
on their rights. Those in turn, who have resisted the



1
2
3 fact that there is no smoking in the workplace. We have
4 some people who will talk about the infringement of
5 rights as a result of the new Broadcast Bill, if indeed
6 it does curtail freedom of speech on talk shows. We
7 have athletes who have resisted the right and the pressure
8 to be tested for steroids. And, yes, maybe even Paul
9 Magda who, in the best interests of society, restricted
10 his right to conduct his business to six days as opposed
11 to seven.

12
13 What are the kids doing and feeling? There
14 are a lot of children who are being looked after and
15 looked after well, in daycare facilities, babysitters,
16 et cetera. We know that.

17
18 In the school which I recently retired from,
19 we had a private organization, who in turn looked after
20 a preschool and post-school program for the kids.
21 Parents would drop off their children at seven thirty
22 in the morning and they would in turn be with the
23 program until nine and be with us until a quarter to
24 four and then again be back in the program from a quarter
25 to four until six o'clock, when they would be picked up
by their parents. And again I applaud those who conducted
the program. They were doing a fine job.

However, as I would drop in and see how the
kids were doing, and many of them were handling themselves
well. There were those who looked rather depressed at
having to spend ten and a half hours on the premises,
somewhat down in the mouth, and there were those who
became behavioural problems.

On the other end of the spectrum we have the
latch key kids. We have kids who leave for school on
their own in the morning and those who return on their
own at night.

May I just read a brief paragraph from a book
called Children Under Stress by Donald Mederios, assistant
professor of psychology, Barbara Porter, a school
counsellor, and David Welch, a professor of psychology, and
I quote: "Whatever the case, there is serious issues



1
2
3 raised by working parents. There are over four million
4 children between the ages of six and thirteen who are
5 called latch key children. These children as a group
6 suffer greater potential for violence, accidents, and
7 crime, than children with parents at home. They are
8 more likely to be the victims of gangs, sibling abuse
9 and sexual assault by strangers or even among seemingly
10 friendly neighbours. They are more likely to suffer an
11 accident."

12 We do have a lot of frustrated, rejected kids.
13 I am talking about their perception, as they see it.
14 They are feeling frustrated and they are feeling rejected,
15 and we all know, I think we all know, that kids have a
16 lot of fears which sometimes always do not come to the
17 surface. Children of a single parent are saying I am
18 down to one parent and what happens if I lose that parent?
19 We have kids caught in the Kramer versus Kramer syndrome,
20 warring parents and the child in the centre and the
21 child perceiving perhaps he is partly responsible.

22 We have a recent of survey twenty-two hundred
23 children between the ages of seven and eleven and sixty
24 per cent of them said that they were fearful that someone
25 was going to break into the house and hurt them. Another
26 twenty-five per cent were concerned about being hurt
27 outside of school.

28 We have kids who suffer from school phobia.
29 It is not a dislike of school, but school phobia the
30 psychologists tell us, is fear of separation from a
31 parent. Separation. We have to deal with those things.

32 Kids have fears of death, which is one of the
33 primary fears, and that is something as we as parents
34 frequently overlook.

35 There is a general feeling among many kids
36 of helplessness, feelings of insecurity, and this in
37 turn unfortunately has an impact on their self concept
38 to a negative extent, and unfortunately the next step,
39 as I have seen in many of the kids I have dealt with,
40 feeling not good about themselves, they come to the



1
2
3 conclusion that they are unworthy human beings and that
4 is dynamite.

5 The best way to counteract, of course, is to
6 have a supportive family atmosphere, to allay these
7 fears. The positive modelling of parents. The discipline
8 that they can provide.

9 We know in many cases, however, that some
10 parents need help and in many, many situations we have
11 children who are receiving counselling, not only through
12 the educational system but outside the system through
13 private sources.

14 What are parents saying? What are parents
15 saying to me as a principal, when their children are
16 having difficulty in a behavioural sense or in an
17 academic sense? They are saying such things as Mr. Barr,
18 what am I going to do?

19 I guess that question was asked to me in my
20 educational career more than any other question, and
21 the answer, again obviously, there were special situations,
22 which would have to be refined, but let me give the
23 gist of the general thrust of my response and that was
24 to do things with their child, take their child to the
25 Science Centre, to the Museum, Ontario Place. Do things
together. Read to him at night. Sit down and read
together. Not only will that help academically, but it
will provide that nurturing feeling between parent and
child, that is so important in the growing process.

Many parents who feel guilty, because they
do not have the time to spend with their children, and
when I see some of the very expensive toys being brought
to school during Show and Tell, for example, and the
limousines that would pull up, I had to think, there
were times, not in all cases, but times when parents'
guilt was prompting them to expunge this by buying love.

However, there are those who do not seem to care.
They have given up. I sat in the living room of a parent,
a father who wagged his finger at his son and said He is



1
2
3 no good, I don't want him.

4 Two months later I was in Court attempting to
5 defend this lad, who had many positive things going for
6 him, but an absentee father, who had written off his
7 child. Didn't know him. He was a stranger in the house.

8 Ladies and gentlemen, I do not think we have
9 to have the wisdom of Job, if all of us sat and listened
10 to families A, B, C and D, all high risk families, I
11 think that our particular rate would be fairly high in
12 establishing perhaps families A and B, high risk, are
13 going to make it, because there is that caring aspect.
14 They do have time to spend together. They are doing
15 things together. There is that support mechanism. They
16 are going to make it, families A and B.

17 Families C and D are in deep trouble, and I
18 think our predictive skills might be as high as seventy-
19 five per cent to eighty per cent in that connection.

20 What else are parents saying? We know that
21 they are saying I am working Thursday nights and Friday
22 nights and Saturday. At least give me one day with
23 my kids.

24 Sunday night on television, maybe you saw this,
25 some grocery stores in Quebec defied the law, opened up,
26 customers were interviewed and staff were interviewed.
27 There were many customers who were delighted, this was
28 a recreational chance and they probably would not have
29 spent any more money during the seven days period,
30 shopping on Sunday, but they thought this was new and
31 novel.

32 But there was a woman who said I want to be
33 with my eight-year old, and on another news cast a
34 grocery clerk was saying Look, I don't want this. I
35 want to be with my family.

36 Two days ago, as I went through Dominion Store
37 in Rexadale, it was not very busy and I said to the clerk
38 What would happen if you had to work on Sunday, and she



1
2
3 didn't know who I was or why I was asking, and she said
4 I wouldn't work, I would have to be paid double time and
5 a half. Double time and a half She said, I want
6 to be with my family.

7 May I, just talking about what other people are
8 saying, quote from the Toronto Star, September 6th,
9 the issue was school drop-outs and Chris Ward, the
10 Education Minister, was quoted as saying, and I am
11 quoting the writer here: "He is right," that is Chris
12 Ward, "when he says that parents in other groups are
13 dumping too much of the responsibility for their children
14 on the schools." The problem of time, I really believe.

15 What are some of the solutions? Well, obviously
16 the preservation of the quality of family life, I think
17 is sacrosanct and should not be undermined by the
18 State. The family is the most significant influence
19 on a child's development.

20 May I just in conclusion quote some people
21 who I agree with totally, an article in the August
22 Reader's Digest by Dr. Fitzhugh Dodson, thirty years a
23 psychologist and an educator, and the article was
24 How To Teach Your Children To Behave: "Build rapport
25 with your child. You must do things with your child.
Activities that do not require anything from your child
except to have fun with you. When my children were
young, I used to take them to see a fire station, a
police station and a newspaper press in action."

Dr. Minden in his book Two Hugs For Survival
says: "It is critical that parents realize one simple
fact: Strong, meaningful relationships can be developed
only with time. There is no such thing as instant one
to one. Time."

Dr. Marc Frankel quoted in the August 5th
Globe & Mail, he is a psychologist, interviewed a hundred
and nine employees of the Toronto-Dominion Bank and an
office equipment manufacturer, the name of the firm
was not mentioned, and a food manufacturer. The results,
and I quote: "He also found that the successful families



1
2
3 were almost fiercely devoted to doing things together
4 and that the parents spent considerable time at home
5 discussing work with each other and with their children."

6 He also says "People who are good at balancing
7 work and family responsibility show higher levels of
8 job satisfaction and lower absenteeism."

9 Finally, a poem by Pamela Glenn Connor: "Bitter
10 are the tears of a child. Sweeten them. Deep are the
11 thoughts of a child. Quiet them. Soft is the heart of
12 a child. Do not harden it."

13 Let us not put earning a buck on Sunday ahead
14 of fostering quality family life in the best interests
15 of our kids.

16 Vice-Chairman: Thank you, Mr. Barr. Three
17 minutes and thirty seconds a caucus. Mrs. Cunningham.

18 Mrs. Cunningham: Thank you very much for
19 appearing before us today, on this last day of our
20 Committee hearings.

21 I should tell you that the values that you
22 place on family life and the availability of time that
23 all of us are aware there is a lack thereof, as we
24 raise our children, is a concern that was brought to us
25 by many, many witnesses.

When we finish today, we will have heard from
some two hundred and seventy, the vast majority of whom
have placed the value of the family as their number one
reason for being here. Their absolute fear that this
particular legislation will in fact force more people,
especially parents and especially parents of young
children, to work on Sundays.

I did not hear you at the very beginning, but
I do know you are a retired school principal, is that
correct?

Mr. Barr: Correct.



1
2
3 Mrs. Cunningham: You have done a lot of
4 counselling with families?

5 Mr. Barr: Yes.

6 Mrs. Cunningham: Did you say you were involved
7 as a school trustee or that you work with a school board?

8 Mr. Barr: I was with the Etobicoke Board of
9 Education and I was a guidance consultant for Etobicoke,
10 which meant visiting schools and doing work with
11 teachers and parents. I was a guidance consultant for
12 Etobicoke as well as being a secondary school guidance
13 counsellor and at a teacher at one time in my career.

14 Mrs. Cunningham: So you would have some opinions
15 on the way teenagers spend their time and on the Radwanski
16 hearings, and even before those hearings and, Mr. Barr,
17 during a bi-election in London, where I was elected in
18 March as a Progressive Conservative and representing
19 the riding of London North, this Bill was of great
20 concern to the citizens, they were not in favour of
21 extended Sunday shopping, and one of I think the most
22 forceful presentations before the public, was the
23 presentation made by the OSSTF. They were very concerned
24 about high school drop-outs and they were extremely
25 concerned about young people having to work so many
evenings and on the weekends. And the opportunity that
we are providing now for young people to work, has been
a traditional one. I am talking about in drugstores
and in garden centres and those piercing institutions
like hospitals and whatnot, part-time. But this of
course will extend that.

26 Would you like to respond to that issue, in
27 your position as guidance counsellor? Are those
28 realistic fears or concerns or do you share those
29 concerns?

30 Mr. Barr: In other words, you are suggesting
31 this will open up opportunities for young people?

32 Mrs. Cunningham: I think you probably would be



1
2
3 doing the same thing or you would not be here today?

4 Mr. Barr: Yes. I would grant that certainly
5 this is opening up opportunities for young people on
6 the Sunday, but my concern really is those who in turn
do have families, who do have children who are being
cared for by others at home and the risks of the latch
key children.

7 Certainly, I would have to admit that would
8 be a bonus as far as young people are concerned, but
9 there are many teenagers who indeed are spending a
tremendous amount of time on their own, who perhaps
10 would benefit, who could still make a buck six days a
Dad on Sunday, doing something with the family.

11 I am thinking, we have a lot of kids in Grade
12 Nine and Grade Ten, young children, young kids, who
13 necessarily would not benefit from having additional job
opportunities.

14 Mrs. Cunningham: I am glad to hear you confirm
15 something that we have certainly believed in our family,
16 and that is the few hours that we have together are
basically spent on Sundays. I must say my husband and
17 I are very busy, but our children are very busy too,
they are teenagers, and we like it when they are able
to be home on Sunday. So I am glad that you raised that
as a concern.

18 You should know that this Liberal government
19 does not really think that this Bill in fact will force
20 more people to work on Sundays, and therefore they will
probably be arguing in their questions of you, that in
21 fact what you have here is really a pointless concern,
meaning that few municipalities will allow stores to
22 open on Sunday as a result of this legislation. In
fact, they will probably even say that the previous
23 speaker was concerned that he may be closed on Sunday.
He is one of the more traditional stores, a garden centre,
that has been allowed to open.

24
25



1
2
3 So this Bill is flawed from both angles, as
4 you can see and we are very concerned about it.

5 We appreciate you coming and making this
6 presentation today on behalf of families. Thank you.

7 Mr. Chairman: Thank you, Mrs. Cunningham.

8 Mrs. Cunningham: Thank you, Mr. Barr.

9 Mr. Chairman: Mr. Philip, you have three
10 minutes and twenty seconds I'm told.

11 Mr. Philip: Thank you, Mr. Chairman.

12 Mr. Barr, it is a pleasure to have someone like
13 yourself, that has had hands on experience in working
14 with children. I know that your views are shared not
15 only by your neighbours but also by your M.P.P., who
16 also happens to be your neighbour.

17 Mr. Ballinger: (Inaudible)

18 Mr. Philip: I did not ask Mr. Barr to appear.

19 Mr. Barr: I did not realize Mr. Philip was
20 my neighbour until one week ago.

21 Mr. Ballinger: (Inaudible)

22 Mr. Philip: I don't think so.

23 I just moved on to that street a few weeks ago.

24 Mr. Ballinger: (Inaudible)

25 Mrs. Cunningham: (Inaudible)

26 Mr. Philip: I wanted to ask you, you mentioned
27 the CELDIC Report, and the CELDIC Report, if I recall,
28 was 1971, 1972 or so, published by the Canadian Mental
29 Health Association?



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Mr. Barr: Yes.

Mr. Philip: It identified a number of technical problems with children with learning disabilities as well as some of the emotional problems?

Mr. Barr: Yes.

Mr. Philip: A lot has gone into the curing or dealing with the technical side, identifying, earlier identification of dyslexic children, and so forth, children with reading disabilities. Yet what I hear you saying, there are other sides to it, that do not cost the kind of money and that are equally important, the problem of the insecurity of a child?

Mr. Barr: Yes.

Mr. Philip: I have always believed that in terms of additives to food, that the onus should be on the company to be able to prove that it does not hurt somebody, before they add that unnecessary chemical to the food.

Here we have, the Liberals will tell you, that you cannot prove Sunday shopping is going to hurt children. Would you agree with me that the onus should be on the other side then, that they should have to prove this kind of legislation does not add extra stress and does not hurt children, rather than vice-versa?

Mr. Barr: Yes, that certainly is a good point of view, and I think we have seen what is taking place in New Brunswick, for example, with the New Brunswick provincial legislature is in the process of overturning the municipal option, which in turn was approved a few years back; and that if those in turn, who favour Sunday shopping, can show it indeed does not have a detrimental effect on family life, I would welcome that kind of input, that kind of research. I seriously doubt that could be the case.

I recognize on the other hand it is also



1
2
3 difficult to prove that Sunday shopping will indeed
4 exacerbate the situation, but I think, I really believe,
5 that men of goodwill -- you have heard many arguments
6 I know -- if it were possible, and I am going to be
7 very presumptuous right now, if it were possible to
8 forget party politics, that those in turn that have
9 been exposed to the fact of the situation and who
10 perhaps are family people themselves, cannot help but
11 realize that this has got to have, this has got to
12 have a disruptive effect on the dynamics of family
13 life in Canada, a detrimental effect on child
14 development and, so, Mr. Philip, I recognize it is
15 difficult to prove on either side.

16
17 Mr. Philip: I just got back from meeting with
18 the government members in New Brunswick and I agree
19 wholeheartedly. They have recognized their mistake and
20 unfortunately the Liberals here do not recognize their
21 mistake, the same way as the Liberals in New Brunswick
22 did.

23
24 Mr. Chairman: Thank you, Mr. Philip. Thank
25 you Mr. Barr. Are there any further questions from
Committee members? Thank you, Mr. Barr. We appreciate
you coming forward to share your views with us.

Mr. Barr: Thank you very much, Mr. Chairman.

Mr. Chairman: Next we have the Catholic
Women's League for Ontario. We have Miss Margaret
Tipping, the Ontario Provincial President, Jacquie
Herman, Resolutions Convener, Joan Hastie, Organization
Convener, Josephine Covelli, Toronto Archdiocese
President, and Pat Sheehan, Resolution Convener Toronto
and Archdiocesan Council. Welcome ladies. Would you
care to have a seat. There should be a microphone for
each one of you.

Mrs. Herman: Can we start?

Mr. Chairman: Well you can, if you have a seat.
We have to record your words for posterity and they will



1
2
3 be, if you are seated. You have thirty minutes, that
4 time is yours, we are getting your brief right now.
5 You can use all that time for your presentation, it is
6 your time, but if there is time left over, however,
7 I will divide it equally amongst the three parties that
8 are represented on this Committee, and they will ask
9 questions and make comments and so on.

10
11 So if the main presenter will identify the
12 people to her left and right for the purposes of
13 Hansard, you can proceed and the time will start running.

14
15 Mrs. Tipping: Mr. Chairman, I am Margaret
16 Tipping and I am the Provincial President of the Catholic
17 Women's League for Ontario.

18
19 This is Jacquie Herman, who is our Resolutions
20 Convener on the Provincial level. Next to me is
21 Josephine Covelli, who is the Toronto Archdiocesan
22 CWL President. Joan Hastie is the Provincial Organization
23 Convener and Pat Sheehen is the Resolutions Convener on
24 the Toronto Archdiocesan level. We represent seventy-two
25 thousand women and I will ask Jacquie to go over this
brief with you.

1
2
3 Mrs. Herman: Thank you. For those of you who
4 have the brief, it is not our intention to go through it
5 verbatim. We feel you can read it and have the research
6 material there.

7
8 We do appreciate once again having the
9 opportunity of presenting a Committee of the government
10 our concerns.

11
12 We also appreciate that you have recently heard
13 from a representation in the north of the province, from
14 a group of our women.

15
16 During the past thirteen years we have watched
17 very closely, and our concerns began when retail stores
18 began opening on Sundays and we applauded then Premier
19 Davis for introducing the Retail Business Holiday Act



1
2
3 which is currently in force, wherein the common pause
4 day was virtually enshrined to the retail sector. But
5 what does concern us is that the current supposed
6 legislation of Bill 113 and Bill 114 appear to disregard
7 both of what we see as vitally important areas.

8 We would also like you to recall that after
9 lengthy challenges to the current Retail Business
10 Holiday Act in the Supreme Court of Canada in December,
11 1986, did indeed find that this was not in contradiction
12 of the Federal Constitution and at that time the
13 Provincial Attorney General, Ian Scott, vowed and I
14 quote, "tough action sweeping new amendments that
15 would crack down on retailers who defy Ontario's Sunday
16 Shopping Law".

17 Following that, as you are aware, the All
18 Party Committee of the Legislature unanimously recommended
19 that the common pause day be retained; and again, after
20 the election, these recommendations appeared to be
21 overlooked and ever since to us have become very confusing.

22 So consequently, here we are again, as we were
23 in February of 1987, to reinforce to you our concerns
24 regarding Sunday openings.

25 We do feel very strongly about the loss of a
common pause day and in fact feel very much this is a
step backwards and would become a seven-day work week.

We really feel, as our stand has been, it
would further harm what has now become the ever weakening
fabric of family life and we too, in opposition,
recognize that family pressures are very real, that
increasingly both parents have to seek employment and
working individuals, as you know, have to consider
employment as a priority and their family obligations
second.

What we are stating is that in our opinion
Bill 113 and Bill 114, if they are enacted, would place
additional stress on the family unit. Which leads to



1
2
3 another concern.

4 In our observations, both in our membership
5 in the Catholic Women's League, in our volunteerism,
6 and in our family lives, we see more and more increasing
7 call on the government to provide funds for youth
8 programs, for youth hostiles, for homes for abused women,
9 for parenting skill programs and as we are all aware,
10 more recently literacy programs.

11 What we suggest to the government parties, is
12 it not time for the government to re-assess why our
13 society has further need for program services which
14 traditionally have been provided in the family environment.
15 To us, clearly, what is happening is that the government
16 is assisting society to work against itself.

17 We have been following the presentations and
18 we realize that you have already heard the majority of
19 our concerns. But again, we feel very strongly that we
20 have to add the views of our seventy-two thousand
21 members to what you have already heard.

22 Additional retail store Acts are going to hit
23 most clearly on the working women, on the working woman
24 who is a single mother, who does not have the ability
25 oftentimes to be able to afford to say No, I cannot
work today. Here is an opportunity that she can make
a few more dollars that supply issues of vital
importance to her family, and therefore she does not
have the luxury of saying I do not need to work, thank
you.

19 The loss of the statutory holiday will
20 further disrupt established family holiday routines.

21 The single parent and the low income families
22 are going to be the population, the segment in the
23 population, that will be most affected.

23 Daycare is very difficult at present and the
24 question that really comes to mind is, is the government
25



1
2
3 prepared to provide additional facilities or will that
4 indeed be the responsibility of the municipalities that
allow seven-day opening of retail stores to take place.

5 So we recognize that many individuals currently
6 have to work to provide essential services, but this
7 has been something that they were aware of and is in
8 part and parcel, and but because of the common pause
day we now enjoy on a routine basis of evolving
evolvment, they are still able to on occasion be with
their family.

9 Of great concern to us is the fact that the
10 government has and is virtually abandoning their
11 position. They are not in any way taking an opportunity
12 to make amendment, and I feel we are very clearly
aware that when legislation is enacted, it is virtually
enacted on paper, and it has to be tried, it has to be
changed and it has to be made workable.

13 This is not the first piece of legislation
14 that has had loopholes. We are all very aware that
15 the Young Offenders Act is a piece of legislation that
16 is full of loopholes, that is having to be amended and
having to be changed, and we strongly suggest that if
the government were to look at the four, what we see,
areas, of weakness in the current Act, that in fact
the Act could be enforced.

17 The areas that we see as weaknesses are the
18 fact that retail stores operate as drugstores and what
19 we are suggesting is that Section 3-2-c should in fact
20 contain an actual square footage of what constitutes
a store that is allowed to be open, and that is to
retain the limit of four employees, which we do not
see addressed in Bill 113.

21 The fines, the introduction of fines, and
22 certainly the fifty thousand dollars, as suggested in
23 Bill 113, is excellent, but for large department stores
24 it becomes the price of doing business, and what we
25 are suggesting is that if you were to also include along



1
2
3 with that large fine, a large percentage of sales for
4 the day on which they are found to be open, we have to
make it unprofitable to circumvent the law.

5 The tourism exemption should be required of all
6 applications for exemption, to be approved by a government
7 appointed administrator. This would ensure that local
Councils would not have to make these decisions and that
the same regulations would apply across the province.

8 Once again, choice of the common pause day,
9 to have portions of the family off on Wednesday or
10 Tuesday or when there are slow shopping days, and to
have portions of the family off on Saturday or on Sunday,
is going to further deteriorate what we see as the
strong family unit, the basis of our Canadian society.

11 We feel these minor changes in the current
12 legislation would make it enforceable and therefore for
the continuance of the lifestyle we enjoy here in Ontario.

13 We are very gravely concerned about the fact
14 that the government appears to be abandoning its
responsibility under the current legislation and is
15 introducing new legislation which is too untried and
are we going to go around the Mulberry Bush once again?

16 On paper the suggested system for handling
17 complaints does appear feasible, but let us not fool
ourselves, many of us have read legislation, watched
18 legislation, have been involved with legislation, that
appears very favourable and in fact is totally unworkable.
19 So we are suggesting we have legislation and let's make
it workable.

20 What also concerns us is that so often
21 reference has been made that we have Sunday shopping
in North America and that people do want to Sunday shop
22 and it has not led to the deterioration of the family.
We question that.

23 We know that in cities in the United States,
24
25



1
2
3 where they have had Sunday shopping, that now more and
4 more as employment contracts are renewed, the regulations
5 are that all employees are required to work, and if they
6 turn down their supposed turn on the roster they
7 are penalized by either not being given sufficient
8 hours or it is being made very difficult for them to
9 work.

10 Again, we are mature adults, we can sit here
11 and say that people do not bypass law, but no matter
12 how much regulation we have, people do bypass laws.

13 It has been understood and accepted that the
14 retail business holidays fall under provincial jurisdiction
15 and that workers of the province enjoy the same rights
16 and privileges regardless of which communities they
17 reside in, and we therefore request that the politicians
18 at the provincial level retain this vital jurisdiction
19 for the benefit of all workers across Ontario.

20 It seems ludicrous to think that people will
21 not live in certain municipalities because they might
22 be required to work on Sunday.

23 The soundness of the proposals contained in
24 Bill 113 and Bill 114 are cause for concern.

25 Prior to the introduction of the legislation
it appeared that the position of the government was that
a pause day was essential. Now it seems it's position
has change and it makes it very difficult for us to
understand just what the position of the government is
and if they are in fact really interested at all in
what the people have to say.

In introducing the legislation, Bill 113 and
Bill 114, the Solicitor General Joan Smith, and the
Minister of Labour, Gregory Sorbara, made comments that
the present law was virtually unenforceable. This
we concede is probably right. We also feel that you
have not done anything to look at changing it and making
it workable, and to give municipal Councils the option of



1
2
3 enforcing the Retail Business Act is going to create
more havoc and we will not know where we stand.

4 We are aware that the provincial government is
5 under a great deal of pressure in dealing with these
6 two bills and what we are suggesting is that we are in
7 strong opposition. We do not want municipalities
8 controlling business holidays, nor do we want further
9 Sunday store openings, and we do request you improve
the present law, take the necessary steps to strengthen
the weaknesses in spots, so that they are enforceable
and to insist that they be enforced to the fullest measure
with strict penalties to businesses which fail to
comply.

10 As we have stated frequently over the years,
11 we realize that this is a very difficult Act to enforce,
12 and again we appreciate the opportunity of you giving
us time to present our views once again.

13 We can state that we look forward to hearing
14 what the views and the conclusions of this Committee are
and that we will continue to monitor and we will continue
to voice our concerns. Thank you.

15 Mr. Chairman: Thank you very much. There is
16 eighteen minutes left, so six minutes to each caucus.
Mr. McGuinty.

17 Mr. McGuinty: Thank you, Mr. Chairman, and
18 Ms. Tipping, for a very, very thoughtful presentation.
19 I was particularly impressed by the fact that you have
read the legislation and pinpoint particular passages in
it. That is very meaningful.

20 You seem to assume, with respect, that the
21 intent of the legislation is to impose upon every
community in the Province of Ontario, Sunday openings?
22 That seems to be an assumption you are making? The
Premier is going to impose this? The government is going
23 to impose this?

24 Now, there is no doubt that the issue of Sunday
25



1
2
3 shopping is something which does get to the heart of the
4 social fabric of our communities. In other areas where
5 similarly, we are dealing with the matter of the social
6 fabric, thinking of education, for example, and liquor
7 laws, we recognize that those politicians who are
8 closest to and most sensitive to the needs of their
9 particular communities, are the ones best qualified to
10 respond in meaningful ways to their constituents.

11
12 That would appear to be the logical behind our
13 having municipal politicians deal with it; as they do
14 with education, for example, the Boards of Trustees and
15 other areas, and it seems to me that you assume that there
16 are two ideas here, related but distinct? There is the
17 idea of the local option and the idea of open Sundays.
18 The assumption that one inevitably leads to the other,
19 I find difficult to understand.

20
21 Supposing, supposing that there are parts
22 of Ontario that wish to avail themselves of this option?
23 I was in London a while ago with this Committee, and I
24 tell this story to illustrate my point.

25
26 I got up at five or six o'clock one morning
27 and I saw a church steeple about fifteen blocks away.
28 Now, where I come from in the Ottawa Valley, nine out
29 of ten times, the church steeple would be that of a
30 Catholic church. So I walked fifteen blocks, only to
31 find there was no seven o'clock mass at the United
32 Church.

33
34 London is different. Other parts of the
35 province likewise. So it might very well be that some
36 parts of the province might want to avail themselves.

37
38 In my own community, I have talked to about
39 fourteen Mayors and Regional Government. They are
40 opposed to Sunday shopping. It is going to be an issue
41 this November, when the municipal election comes forth
42 and the candidates are going to have to declare their
43 position on that.

44
45 So, part of my commentary is why do you assume



1
2
3 or I think impute to the Government, the motive of
trying to impose on communities Sunday shopping?

4 Mrs. Herman: Mr. McGuinty, for one thing,
5 I think you are confusing two issues.

6 I take exception to you suggesting that the
7 Boards of Education are in control of their education
8 locally. They are in control of the administration of
the Education Act locally, but they do not have complete
control. So, therefore, I take exception to your --

9 Mr. McGuinty: Well I --

10 Mrs. Herman: Excuse me.

11 Mr. McGuinty: I accept that --

12 Mrs. Herman: Well, all right. The other thing--

13 Mr. McGuinty: I sat as a trustee for sixteen
years and I know there is a great deal of local autonomy.

14 Mrs. Herman: We are not talking apples and
15 oranges here.

16 What I am also suggesting to you is the local
option issue, we are not assuming it will lead to.
17 What we are suggesting is you are opening the door.

18 I come from a tourist area and the fact that
Niagara Falls, part of it, has a local option for open
19 tourism.

20 Now, the other issue is that the regional
government has an application from the City of Welland.
21 Now, no disparagement to the City of Welland, but it is
not needed for a tourist area.

22 I also suggest to you that in fact what we are
23 talking about is, yes, there are areas across the
Province of Ontario that are in the tourist areas and
24
25



1
2
3 that these options are there, but they were not currently
4 and we are not making the assumption, but we are saying
5 that you open the door to looser laws and what it
6 appears to be with Bill 113 and Bill 114 is that the
7 government is abandoning provincial legislation and they
8 are saying this is a local option.

9
10 Mr. McGuinty: That's right.

11 Mrs. Herman: It is not the case with the
12 liquor laws or the Education Act or many of the very
13 vitally important Acts, that have a lot of effect on
14 all individuals in Ontario.

15
16 Mr. McGuinty: Do you expect in your community,
17 that the municipality will opt for open Sunday?

18 Mrs. Herman: It is not my impression that the
19 Regional Municipality of Niagara will opt for Sunday
20 opening, and I also take the point with what you are
21 saying, is that in November, when we are already agreed
22 that we will question people, who intend to run for
23 municipal government, as to what their stand will be,
24 prior to or during the time they are running for election.
25 But that again is not the point.

The Liberal government is saying We are giving
this voice to the people. I would suggest that perhaps
you consider taking down Stop Signs and see how many
people make appropriate choices.

Mr. McGuinty: In my less than settled mind,
fails to understand what that means?

Mrs. Herman: What I mean is that oftentimes
when people are given freedom of choice or given whatever,
that it does take we are a country, we are a land,
that does have some rules and regulations that have to
apply in general, and that freedom to be open on Sunday
or not be open on Sunday, will have repercussions to
the whole fabric of society, that the costs involved are
not simple and I say take for instance, daycare, and I



1
2
3 say for instance, who supplies the stores?

4 For one thing, if we take a look at the
5 Transportation Act in the Province of Ontario, the fact
6 of trucks not running at certain times. There is
7 certainly going to be far more effect than one municipality
opening after another, and we merely are saying we are
concerned. It is not just the case of unlocking a door
on Sunday.

8 Mr. McGuinty: I appreciate your concerns and
I enjoyed your brief very much. Thank you.

9 Mrs. Herman: Thank you.

10 Mr. Chairman: Mr. Philip.

11 Mr. Philip: Thank you. I think in thirteen
12 years as a member of the Legislature, I have never missed
13 one of your briefs to our caucus and they are always
14 progressive and enlightened and you are nodding your
head. I think you have made the presentation thirteen
times, or at least, a good many of those years?

15 I also want to thank you for all the petitions
16 against this legislation, which you have collected in the
various Catholic Women's Leagues, not to mention the
one for St. Andrews and St. Benedicts Church.

17 My question to you is this: The Catholic
18 Women's League is a Canada-wide organization, not just
Ontario, and I recognize that there are not as many
19 Catholics in British Columbia, but can you tell us your
experience in British Columbia and what has happened
20 there and whether or not you feel that we can expect
any difference in Ontario? Right now there fifty-five
21 municipalities that are wide open on Sunday in B.C. as
a result of the municipal option.

22 Mrs. Herman: And also Alberta.

23 Mr. Philip: Alberta was for different reasons
24
25



1
2
3 but, yes, Alberta went the municipal option route.

4 Mrs. Covelli: Yes. I can't answer that,
5 Mr. Philip. Do you know if in British Columbia there
6 was a response from CWL, when they had opened Sundays?

7 Mr. Philip: I don't know. The so-called
8 municipal option, which the Liberals say will not
9 necessarily impose Sunday shopping, has resulted in
10 all of the municipalities on the Mainland being open.
11 Fifty-five actually, was the latest count. I was using
12 fifty-four and I have just been informed it is fifty-five.

RH20:jl
13 My question to you is this: You agree with
14 the Government that there are some problems with the
15 present legislation. You made a presentation and I was
16 on the Select Committee that the Premier set up, we
17 went around the province, the same way as we are going
18 around now, and would you agree, you have read the
19 recommendations of that Select Committee, would you
20 agree that had the government started off, as the
21 Premier said during the election, agreeing with the
22 recommendations and putting in the amendments that are
23 contained in that Select Committee report, to the
24 present legislation, that we go a very long way to
25 correcting any of the problems in the present Act?

16 Mrs. Covelli: I would like to see it in front
17 of me, before I answer the question, Mr. Philip, because
18 I cannot remember it that well.

18 Mr. Philip: Does anyone else want to comment?

19 Mrs. Herman: We feel, and I think perhaps
20 Mrs. Covelli, because it has been our stand, any
21 legislation has to be looked at and amended and found
22 to be workable, and if not workable, further amended.
23 That is how things come into working. So we agree, that
24 those recommendations should have been put in place.

23 Mr. Philip: The reason I ask that is because
24 I find some of your recommendations bear a striking
25 similarity to the recommendations of the Select Committee



1
2
3 and one wonders why we had to spend all of this money
4 dealing with a bill that completely ignores Section 4
5 and ignores the recommendations of the Select Committee,
6 when they simply could have started with the Select
7 Committee report and had legislation through before the
8 last Recess.

9 Do you see any kind of contradiction? The
10 Liberals are saying that they want to give the local
11 municipalities a local option and Mr. McGuinty used the
12 example of the liquor laws. Yet under this legislation,
13 licence sellers, namely, the licence plate sellers, are
14 going to be exempt and they have to close on Sunday.
15 Liquor stores have to close on Sunday. But yet a
16 municipality can force automobile dealers, who are selling
17 cars and who need the licence plates for these cars, to
18 be open on Sunday. Is there not a striking contrast,
19 this legislation really has not thought through; there
20 are contradictions all over the place in this?

21 Mrs. Herman: Mr. Philip, I think what is
22 happening here, is that obviously we have three parties
23 that are looking at an issue. I believe we have spoken
24 strongly as to what we agree with and do not agree with
25 and that in fact we do have concerns.

What we would say is, and I think if we can
go back to 1975, when in fact the Progressive Conservative
party was in power, at the time, was it was a Bill brought
in that did have loopholes, but no matter which party
sits in power, loopholes are in the legislation and,
therefore, we are concerned not so much with which party
is in power, but that the loopholes be closed.

Mr. Philip: And those loopholes would have been
closed for all parties prior to the election, with the
Select Committee report which the government failed to
implement?

Mrs. Herman: I think we have stated we are
concerned about the abandonment of the standards.

Mr. Philip: You have talked at some length



1
2
3 about the need for additional daycare, and so forth,
4 which you have fought for over the years. From your
5 experience then, the government has not said it will
6 come up with some magical new way of getting dollars
7 and putting in Sunday daycare for the municipalities.
8 What is the effect of this, in your opinion, on local
9 taxpayers and on the already overburdened daycare system,
10 that you have been fighting to expand?

11 Mrs. Herman: It was not our intention per se
12 to bring about the daycare issue in this brief. It was
13 my submission and our position to point out that one
14 such item, such as daycare, would add additional costs
15 to municipalities. I think you could also say waste
16 management would add additional cost, if stores are open
17 more frequently. I think we could say most of the
18 essential services, such as police enforcement, et cetera,
19 et cetera, and we used daycare as an example. So,
20 therefore, I do not feel that at this time it is qualifying
21 for us to speak simply to the issue of daycare. We
22 were using that as an example of additional costs that
23 will be incurred by municipalities, should seven-day
24 week retail hours become effective.

25 Mr. Philip: You point out on page 4, that
there is problems in the exemption, in which stores
can remain closed on Saturday and remain open on Sunday.
Do you feel that that section of the Bill is in any
way enforceable; in other words, what happens to the
employee, if one store that has two hundred employees,
simply says they are going to close on Saturday and open
on Sunday? Do you see a checkerboarding effect that
can happen in this province?

Mrs. Herman: I believe what you also have to
look at there, is certainly the concern, we do not feel
because we represent the Catholic Women's League of
Ontario we can speak to the fact we are a multi-
cultural province, that there are other religions that
have a holiday or a pause day, which is more traditionally
not the pause day of the Christian people here. So,
therefore, the current way in which the legislation appears



1
2
3 to be being enforced, is that if a store, for instance,
4 a kosher grocery store wishes to be open on a more
5 probable opening day than Sunday, that they should be
6 allowed to therefore have full staff, and I think what
7 you will find there is we are addressing the issue,
8 that would not be a mixed ethnic staff, or mixed staff,
9 which would therefore be involved.

10 Mr. Chairman: Thank you, Mr. Philip.

11 Mr. Philip: Thank you.

12 Mr. Chairman: Are there any further questions?
13 Mrs. Marland?

14 Mrs. Marland: Thank you, Mr. Chairman.

15 First of all, I would like to congratulate
16 you, the CWL, not only for being here today and the
17 presentation today, but for the work that is ongoing
18 throughout this province by your organization. I feel
19 that the commendation is so well earned, because you
20 speak on behalf of the future of this province, through
21 the people that you represent, namely, families and
22 children in those families, and I think that the work
23 you did recently on capital punishment and the ongoing
24 work that you do on subjects like abortion, is very
25 commendable.

I want to tell you that all is not depressing
about this legislation, because the good news side of it
is that one thing we can guarantee is, if this legislation
goes through, at least we can look forward to a change
in government in about three years time.

Mr. Ballinger: (Inaudible)

Mrs. Marland: Certainly, the people of this
province are not so blind to know that if their views
are not carried and represented by the government that
they elect, they will indeed elect a government that does
represent their views.



1
2
3 This sounds, perhaps on the scale of a whole
4 lot of subjects within the province, whether stores are
5 open on Sunday or not, in some people's opinions in
6 the government today, may not be so significant, but
7 the far reaching effects, which you are addressing in
8 your presentation, are very significant and the people
9 of this province will not sit back and allow that to
10 happen on an ongoing basis.

11 The very fact that you say it is going to be
12 an issue, I think when Mr. McGuinty was speaking and he
13 talked about the fact that it was going to be an issue
14 this Fall, is it not ironical that in dumping the
15 responsibility on to the local municipalities, it is
16 already becoming an issue this Fall, because of the need
17 to make it an issue somewhere else; in other words, because
18 the provincial government has not listened, now we are
19 desperately reaching out to hopefully elect people
20 municipally, people who will listen.

21 Certainly, it has got to be very significant,
22 that in your brief on page 5, where you say that the
23 Premier himself has reversed statements that he would
24 not permit Sunday opening. The very fact that you
25 addressed that yourself, that in fact there has been a
betrayal of faith in this government, because not only
has the Premier reversed himself, but as you also refer
to, some comments made by Ian Scott, and earlier
deputation this afternoon, read a very interesting quote,
which I will reread to you and the quote is: "A uniform
pause day is needed to allow the pause day of retail
workers to coincide with that of their school age children,
spouses and friends." That quote is from the Attorney
General, Ian Scott, when he defended the conviction of
a Sunday law breaker.

Isn't it interesting that you have to go to
the time and effort to be here today. Isn't it
interesting we have spent a hundred thousand dollars
travelling around the province with this Committee to
hear something we already know, to hear something that
only a few short months ago, the Attorney General Ian



1
2
3 Scott and indeed the Premier himself were saying, and
now today it is another page, it is another colour.

4 It is interesting, when we talk about different
5 parts of the province, and this is one of the arguments
6 that I think my colleague Mr. McGuinty was making, I
7 would like to ask you, when we talk about the local
8 autonomy being necessary, and the suggestion by the
9 government that we do give local autonomy, I am very glad
to hear, Jacquie, from your comment, I thought your
response was excellent, about the fact that school boards
in fact do not have local autonomy. School boards of
course have provincial curriculums. So your response,
Jacquie, to that point was very valid.

10 So local autonomy in fact does not exist. It
11 does not exist in the Liquor Act. It does not exist in
12 the Highway Traffic Act. Nor does it exist under the
Federal statute, the Criminal Code of Canada and is the
13 argument that criminals should be treated differently in
different areas because they have different needs?
14 Maybe they need to steal and rob and everything else,
in one part of the province, and should be treated
differently elsewhere?

15 So, when we talk about local autonomy --

16 Mr. Ballinger: (Innaudible)

17 Mrs. Marland: -- I am trying to ignore the
18 interjections, which are highly rude and highly irregular
and so, if you can't hear me, that is the ignorance of
19 the government members, and if the government members
are losing the argument --

20 Mr. Chairman: Mrs. Marland has the floor.

21 Mrs. Marland: -- are losing the argument, you
22 see they interject, that is just a tactic that they
try to use, and when you are scoring points, that is when
23 they usually interject.

24 Would you view, around this province, from your
25



1
2
3 organization, from the view of the Catholic Women's
4 League, that the family values and the needs of workers
in this province vary from one geographic area to another?

5 Mrs. Herman: If we could restate your question?

6 Mrs. Marland: Yes.

7 Mrs. Herman: If I understand your question,
8 you are saying do the values of families and the needs
of workers vary around the province?

9 Mrs. Marland: Right.

10 Mrs. Herman: I think that the question has
11 to look at the unit and the strength of the family unit
12 does not vary. There is a need for opportunity, no
13 matter what part of the province you are, together,
14 to be able to spend time together. I think we can take
15 into account, for instance, and I do not want to deviate
16 from the answer to your question, but I know the chaos
17 that is being created this coming year, just in the sense
18 that we are having a difference in the school holidays,
19 the March Break. Something as simplistic as the March
Break is causing difficulty, because there are students
20 who attend in different parts and therefore, if for
21 instance a family wishes to get together during the
22 March Break, and I know they cannot do it, because family
23 members that might live in one part, an aunt, uncle,
24 sister or whatever, mother, families, cannot. So,
25 therefore, I think, no, the family needs across the
province, in order to continue to have a strong family
unit, they have to have an equal opportunity to spend
time together, and we could go on forever from there.

20 Mr. Chairman: I am afraid you cannot go on
21 forever.

22 Mrs. Marland: Your March Break argument is a
23 very valid argument.

23 Mr. Chairman: Mrs. Marland
24
25



1
2
3 Mrs. Marland: -- and it is rather significant
4 and thank you very much for your presentation.

5 Mr. Chairman: Thank you, Mrs. Marland.

6 I would like to thank you for coming forward.
7 I was curious as to whether or not Miss Tipping is
8 related to the late Clair Tipping.

9 Miss Tipping: Yes. My brother.

10 Mr. Chairman: Who used to be the Pastor at
11 St. John Fisher. A very excellent man.

12 Miss Tipping: Thank you.

13 Mr. Chairman: Thank you very much for coming
14 forward, we appreciate your views, the Committee does.

15 Mrs. Herman: Thank you for allowing us to
16 take the time to give you the presentation. Thank you.

17 Mr. Chairman: Now we have the Canadian Council
18 of Grocery Distributors. We have a rather larger line
19 up than is listed on your sheet. We have Mr. Wayne
20 Luedtke, is it?

21 Mr. Carter: We have a list of the names, if you
22 would like.

23 Mr. Chairman: I have a list of the names, so
24 I am just going to read them out, and maybe what we will
25 do, to save you having to identify them, we will do it
like a football game, I will call out the names and in
that way Hansard will be able to record. But no applause,
please

Wayne Luedtke, would you come forward. He is
Executive Vice-President Merchandising A&P/Dominion.
If you would care to have a seat.

Mr. Luedtke: Thank you.



1
2
3 Mr. Chairman: Mr. Ron Berresford, and Mr.
4 Berresford is a Senior Executive of Knob Hill Farms.
5 Then Mr. Andy Faas, is it, and he is the Vice-President
6 Administration, Central Canada Grocers.

7 Mr. Faas: Yes.

8 Mr. Chairman: Then Bob Winstanley, back for
9 the second time, I think, Mr. Winstanley?

10 Mr. Winstanley: Yes.

11 Mr. Chairman: Mr. Winstanley, Director of
12 Marketing Projects, Miracle Food Mart. Mr. Jonathan
13 Wolfe, who is the Group Vice-President Food, Oshawa
14 Group, and Mr. Tim Carter, Vice-President, Canadian
15 Council of Grocery Distributors.

16 I should caution you at the outset, for those
17 of you who have not been here before, that there are
18 microphones in front of at least four of you. As
19 we want to preserve your words for Hansard, if either
20 of the people on outside, and here I am going to Mr.
21 Winstanley and the other gentleman, Mr. Luedtke, are
22 going to speak, you will have to change places and get
23 before a microphone. You have thirty minutes, it is
24 your time, we are here to listen to you. If you choose
25 to use that entire amount of time, that is your
prerogative, but if there is time left over, however, we
will divide it equally amongst the three parties of the
Committee and they will ask questions or make statements,
and they will hopefully not interject, and so on.

19 Mr. Ballinger: (Inaudible)

20 Mr. Chairman: I was not even looking at you,
21 Mr. Ballinger.

22 So if you would like to proceed, Mr. Carter.

23 Mr. Carter: Thank you, Mr. Chairman, very much.

24 With your indulgence, I would like to go through
25



1
2
3 the main points of the brief, which we brought with is.
I hope everybody has got copies, and if they haven't

4 Mr. Chairman: Yes, we have.

5 Mr. Carter: Right. Thank you. I would like
6 to highlight the brief for the major points, and then if
7 there is time, we would like to answer questions for as
long as you would like. We are not bound by the time
restrictions that I understand you might be.

8 I am going to start on page 2 of our brief.

9 The Canadian Council of Grocery Distributors
10 is a national trade association representing food wholesale
and retail companies, who conduct approximately eighty
11 per cent of Ontario's food business.

12 In Ontario, while the proportion is the same,
the volume of buying is about six billion dollars and
13 our employees number about sixty thousand persons. Our
organization has launched a debate on your work over the
14 past six months, and we think that within our industry
this is about as large a group as has been able to come
15 together before the organization in a united way. I
might say that we have worked hard to achieve this
16 unity and that is probably our main contribution today,
is that we have been able to get this large group
17 together and to work on those points which they have
and which they would like to put forward as a single
18 voice.

19 I am moving over to page 3 and to recap
quickly the present situation and our discomfort with it.

20 Traditional food retailers feel that their
21 market position is under attack with increasing degrees
of encroachment, on Sundays, from other forms of
22 retailing. Indeed, because of the nature of current
regulations and the manner of enforcement, a significant
23 number of retail concerns have fashioned their operations
to exploit inequalities in the system.

24

25



1
2
3 To our members, it seems as if all of the
4 potential of the merchandise categories which they
5 carry in their full line supermarkets has been
6 diminished, once the public has been treated to Sunday
7 trading from drugstores, smaller food stores, produce
8 markets, nurseries and other tourist area merchants.
Members of the public who wish to buy the product offerings
found in a regular food store, which is closed on a
Sunday, can readily satisfy their needs from among those
retailers who are either legally permitted to be open,
or who remain open through lack of enforcement.

9 I have got some examples with me, which I
10 would like to pass around. You have probably seen these
before, but it might be worthwhile to pass them around,
and we will get to them later on.

11 Mr. Ballinger: (Inaudible)

12 Mrs. Marland: (Inaudible)

13 Mr. Carter: That's right, they don't need any
14 extra advertising. Thank you.

15 It should be mentioned that hardships prompted
16 by existing rule biases affect returns not only to food
17 stores themselves, but also to the general retail work
18 force. The overall effect of today's tilted market has
19 tended to move sales from food retailers, with their
20 more highly paid personnel to the myriad of alternative
Sunday traders, which tend to retain lower cost staffs.
The result is a drop in labour's return per sales dollar
by amounts as much as fifty per cent in straight wages,
without consideration of the attractive benefits
packages offered by most major food retailers.

21 I would like to, Mr. Chairman, summarize some
22 of the points in Bill 113, that we support. I might say
23 that our basic position is one that supports Bill 113,
24 except for the municipal option, and I would like to move
25 through those parts of Bill 113 that we think are
exemption conditions.



1
2
3 We agree with the removal of produce stands
4 as well as nurseries, and that their exemption be
5 terminated. We also support the removal of the tourist
6 area exemption.

7 With respect to the exemptions which we would
8 support, we think that twenty-four hundred square feet
9 is a reasonable amount for food stores and we think that
10 pharmacies should be restricted. You will notice that
11 the ads that I have passed around, deal with pharmacies.
12 However, Mr. Chairman, we think that seventy-five
13 hundred square feet is a reasonable limit, considering
14 the economics of running the stores and the realities
15 of what is out there in the marketplace.

16 Dealing with the religious aspects in Bill 113,
17 I commend our brief to you and we are concerned about
18 potential abuse and I would like to highlight one aspect
19 of that and bring that to your attention. It is on
20 page 6, 4.6.

21 Determination of the day for religious
22 observance should be able to be set by store, not
23 company. This method would provide the fairest course,
24 particularly for chain store operators who wished to
25 meet retail competition in trading areas which recognize
different religious holidays. The alternative of
requiring a chain store to treat all its stores in
its operation in a similar manner, is to place it at
a disadvantage in situations where it must face a
collection of independents, each accommodating the
religious needs of different trading areas separately.

19 We do welcome the arrival of injunctive powers
20 the Government to shut down violations at the point they
21 occur. We had a situation recently in the Province
22 where this would have been a useful addition at the
23 time.

24 We also support the use of advertising
25 material as evidence of an offence and we readily
support this.



1
2
3 Then moving over to page 7.

4 Food distributors agree with that part of the
5 new Act which proposed increasing financial penalties
6 to make them more closely resemble the economic benefits
7 which can be obtained from violation. However, the amount
8 of these fines, we believe, should be set only by the
9 Provincial government.

10 Mr. Chairman, I would like to move to discussion
11 of the municipal option. It is a major part of our
12 interest, which we would like to put before you today.

13 Most of the food trade in Ontario is conducted
14 in concentrated and adjacent municipalities where the
15 population flows across municipal borders as a normal
16 course of everyday traffic movement. In fact, for the
17 average consumer, the extensive degree of integration
18 of neighbouring municipalities obscure the actual
19 boundary lines. As a result, the shopping behaviour of
20 our large, concentrated and highly mobile population will,
21 in effect, eliminate the possibility of implementing a
22 real municipal option.

23 Each municipality will, in succession, lose
24 its ability to choose in the face of the overwhelming
25 commercial loss being suffered by its merchants at the
hands of their rivals in neighbouring municipalities,
which have previously decided to permit their stores
to be open.

In this situation, municipal politicians, we
believe, will have no choice but to acquiesce and follow
with bylaws which permit opening. They will do so at
the extreme urging of their constituents, who are
witnessing the weekly loss of their business. Here again,
the relatively fixed size of the total food market will
play a role in demanding that food stores be permitted
to open as soon as possible to minimize sales losses to
stores located in nearby municipalities.

The total market, being somewhat fixed, suggests



1
2
3 that customers buy on one day what they won't buy on
4 another. So that means that you do not pick it up on
5 the next day.

6 In effect, this municipal option will not be
7 an option at all, but merely a formality in a process
8 which will lead to Sunday becoming a day for normal
9 retail shopping Province-wide.

10 In conclusion, implementation of the points
11 mentioned above will promote equality of treatment and
12 eliminate any existing biases in the marketplace which,
13 in effect, skew investment and operational practices
14 toward further market distortion. Ontario food merchants
15 have, for some time, suffered because of the development
16 of an inequitable regulatory environment and exacerbation
17 through enforcement difficulties.

18 In fact, most Council members -- and that is
19 the Grocery Council members -- find existing circumstances
20 so unacceptable that, without the introduction of Bill
21 113, they would prefer to operate without any regulations
22 pertaining to Sunday or holiday business. The food trade
23 looks toward implementation of Bill 113 as a chance to
24 reduce these problems and provide fairness of opportunity
25 for all competitors. In short, Council believes that the
Bill is an excellent step forward to encourage the type
of retail growth which will ultimately satisfy the week-
long needs of the consumer in the most efficient manner
possible. Our Association encourages its adoption, but
strongly advocates removal of that section which permits
municipalities or regions to establish separate rules
with regard to Sundays and holidays.

We believe that retention of the municipal option
is tantamount to abdicating provincial authority and that
it will contribute directly to the elimination of a non-
commercial Sunday or alternative day of rest.

The result will occur over time in what has been
labelled the domino effect with neighbouring municipalities
requiring similar rules of retail practice. The major



1
2
3 problems which will be provoked by time-lag implementation
4 and the development of unique municipal bylaws, leads
5 the Canadian Council of Grocery Distributors to conclude
6 that a fairer alternative for all concerned to the
municipal option, would be for the Province's legislators
to simply skip the ripple stage and permit open Sunday
trading across the Province at this point in time.

7 The outcome would be the same, we believe, but
8 the time interval necessary to get there, with its market
inequalities, municipal competition and interest group
lobbying per municipality, would be eliminated.

9 The Canadian Council of Grocery Distributors
10 appreciates the opportunity to appear before the Standing
Committee on this most important subject. The members
11 of our delegation will be pleased to answer questions
which Committee members may wish to pose at this time,
12 or to follow up afterwards, if time is not available at
this instant.

13 Mr. Chairman, thank you very much. That is
14 our formal statement.

15 Mr. Chairman: Thank you, Mr. Carter. We
have five minutes and forty seconds per caucus and I am
16 looking for hands for questions. I am still looking for
hands for questions. I may start asking questions very
17 shortly, if somebody does not raise their hand? All
right, Mr. Philip, five minutes and forty seconds.

18 Mr. Philip: Thank you, Mr. Chairman.

19 Thank you for your interesting brief and would
20 you agree that if you removed Section 4 of the proposed
Bill, as you suggest and leave the rest of the Bill in,
21 you are not that far from the Select Committee report
that made a number of recommendations on how to clear up
22 some of the abuses and that you could simply amend the
present Act, using the Select Committee report
23 recommendations and you end up with something that is
not all that dissimilar from this Bill, minus, if you take
24
25



1
2
3 out Section 4 of the Bill?

4 Mr. Carter: Mr. Philip, I do not have the
5 sections in my head.

6 Mr. Philip: Section 4 is the municipal option
7 section and what you are saying is that basically the
8 rest of the Bill is not all that bad and that you could
9 live with it, if Section 4 were removed?

10 Mr. Carter: We believe that the municipal
11 option destroys a lot of the value, not all the value,
12 of the rest of the Bill, and we support the rest of the
13 Bill. I cannot relate it to the Select Committee's
14 report, but it is roughly correct, as I mentioned. I
15 would like to get my friends in here.

16 Mr. Faas: The Select Committee pretty much
17 dealt with most of the concerns we had and, yes, it is
18 very similar to Bill 113, with the exception of the
19 municipal option.

20 Mr. Philip: I guess what the New Democrats
21 and the Conservatives on this Committee are saying is
22 We would be quite happy to implement the Select Committee
23 report; why not? We signed it. So did the Liberals,
24 but they seem to have different ideas about it.

25 Mr. Carter: Can I just say the Grocery Council,
sir, went to work on Bill 113 and we have had a number
of meetings, to try and be useful on that Bill, and we
worked, everybody, together. We did not work on the
Select Committee report. We can do so, if that is your
wish.

Mr. Philip: A number of your members, though
did work on the Select Committee report and I see nods
from your members; and they in fact did make representations
and we have been told that their ideas and your ideas here,
minus Section 4, are in fact the same.

Mr. Carter: Very close.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Mr. Philip: All right, very close.

Mr. Faas: Representations were made by individual companies and not as a group.

Mr. Philip: What I read from page 5 is that basically you are saying from your experience, if Section 4, which is the municipal option section for municipalities -- and every group appearing before us, our figures now are that something over twenty to one against that one section, that is the section they are complaining about -- that you would be better off then, simply opening up wide open, because it is going to end up with wide open Sunday shopping anyway, and it is just going to be more painful to you and create more anarchy in the marketplace and more instability going this route, and that you will end up, in your opinion, with wide open Sunday shopping anyway; it will just take a little longer, is that what you are saying?

Mr. Carter: That is roughly correct. It will take some time and it will probably be different for the municipality, there will be lobbying per municipality, and the fairest thing to do would be to open it up right now, as an alternative to letting this domino effect proceed.

Mr. Philip: I am wondering of some of your colleagues who may have stores in British Columbia or in the west, would like to comment on that, from their own experience, particularly in British Columbia? I know that Loblaws only has a few stores in B.C., but what about the rest of you? Maybe Oshawa Wholesale?

Mr. Carter: Mr. Philip, I have a letter from New Brunswick, where some of our members have stores, and I am happy to give copies to you, which suggested the municipal option was unsuccessful there and is in the process of being withdrawn.

Mr. Philip: I was in New Brunswick yesterday and I can tell you that the Liberal members of the



1
2
3 government there, were trying to convince some of our
4 Liberal members, who happened to be down there with me,
5 and they were not too successful in convincing them that
6 Section 4 and the municipal option was anarchy. But
7 that is exactly what they said and they used that word,
8 that it would create anarchy in the marketplace, create
9 anarchy in enforcement, and even in New Brunswick, that
10 tends to have municipalities separated more than in
11 British Columbia, on the mainland, that it actually had
12 a ripple effect or domino effect, as it has become known
13 to be called.

14 I wanted to ask you if any of you have any idea
15 what wide open Sunday shopping will do in terms of both
16 service -- in the west we understand store hours are
17 actually less now and services being reduced, in order
18 to meet the payroll of the extra day -- and in terms of
19 cost? Will costs likely go up and be passed on to the
20 consumer, if we have seven-day a week shopping instead of
21 six-day a week shopping?

22 Mr. Carter: Maybe I can ask some of the
23 practitioners who are here, to answer that.

24 Mr. Faas: In terms of hours, we would basically
25 spread six days work over the seven and try to keep costs
down.

Mr. Philip: Are there not union agreements
that a number of you have, that say you have to pay time
and a half on Saturdays? Now, surely, if you pay time
and a half on Saturdays, you are going to have to pay
for time and a half on Sundays?

Mr. Faas: Saturday is straight time, but there
are agreements that call for premium payees on Sunday
and subject to whatever happens, if the stores are
legally required to open, I am sure we will be sitting
down with our unions relative to discussing those premiums.

Mr. Philip: Thank you.

Mr. Chairman: Mrs. Marland, five minutes and



1
2
3 forty seconds.

4 Mrs. Marland: Thank you, Mr. Chairman.

5 It is very interesting to be subbing on this
6 Committee and just with a limit of three years experience
7 at Queen's Park. I have never sat on a Committee before
8 where we have this gamesmanship by the Government members
9 of the Committee, waiting for us to ask questions first.
I think, certainly, they must caucus every morning and
decide better let the bad guys go first. So I am quite
happy to follow my member for the New Democratic party.

9 Mr. Chairman: (Inaudible)

10 Mrs. Marland: No, I know, Mr. Chairman, you
11 do not have any choice, but I find it very interesting.

12 I am interested that in your brief, gentlemen,
13 you referred to your sixty thousand plus employees, and
14 I am assuming that this Committee has heard from the
unions representing the union branches. I know that our
Progressive Conservative Task Force certainly heard from
them all across the province, two and a half years ago.

15 Your brief, the thrust of your brief, and I
16 recognize why it would be that way, because you are the
reason that there are sixty thousand plus employees,
17 who have the opportunity to work for your various
organizations. Certainly, the thrust of your brief is
18 from a business perspective. That is your responsibility.

19 But you are all obviously individuals and
20 probably some of you with families and a home life and
that environment. I wonder whether you could inject
21 some personal aspect into your brief from the standpoint
that a lot of the decisions you are called upon to make
22 as executives, have to be related somewhat beyond just
the crass market costs of merchandising food products.
23 Do you accept the position that your unions throughout
some of your organizations have taken, opposing having
to work on Sundays?



1
2
3 Mr. Carter: I am glad you asked the question,
4 because we were talking about this issue. We were very
5 much aware that the brief which we have presented, did
6 not have sort of the human touch that you mentioned.

7
8 What we thought would be the most useful role
9 for this contingent, for our contingent, would be to
10 speak about, if you like, equality of treatment or business
11 equity or fair treatment of business, that that would be
12 thing we could bring to the table.

13 We are aware that you have had numerous
14 presentations talking about the family and the preservation
15 of the family, the effect on children and the church, and
16 we are not indifferent to those matters at all. We
17 discussed those as well. But we thought that our role
18 would be one that dealt with the financial side of it
19 and that is what we have tried to do here.

20 There is reference though to the fact, that
21 when you shift sales from the companies which we
22 represent, and we work in ratios, if you like, sales
23 per man hour; and if you shift those sales and shift
24 those manhours, you do so at a cost, and the companies
25 that are represented here, tend to have higher wages
and salaries and benefits. So that there is a damaging
financial impact on the retail work community, by having
biases in the market right now, and I think that speaks
to some degree to your point and that is in this brief.

Mrs. Marland: I made a note of that reference
on the top of page 4, where you are talking about the
result of what might happen with the proposed legislation
in terms of the comparison of employee benefit packages.

Mr. Carter: For the current situation, I
might say, which is very glaring, in that exact area,
what goes on right now, does indeed transfer business
to less paid workers.

Mrs. Marland: Yes. Can I just ask you, we did
have a presentation earlier this afternoon from a group



1
2
3 under the heading of Landscape Ontario, Horticultural
4 Trades Association, and they were talking about the
5 current exemption that they enjoy for nurseries and
6 garden centres. I find it interesting that in your
7 brief you list nurseries as part of the problem of
8 the current legislation, where you talk about you wanted
9 to be treated equally and the potential sales go from
10 drugstores, smaller food stores, produce markets,
11 nurseries and other tourist area merchants. Could the
12 argument not be made by them, that for your food chains
13 to be in the nursery business is not equitable either?
14 I just wondered why you included nurseries in there,
15 because that is not really a food chain, is it?

16
17 Mr. Carter: I think we would not deny them
18 getting into the food business or any other business we
19 are in, on those six days a week, so that we have
20 equality of treatment in those six days. We are not
21 asking for anything more for us than for them. We just
22 want to be treated equally. I think it is true, that we
23 are in their business, as they are in our business, but
24 we think we should do so on the same days of the week,
25 so that there is equality, and maybe my friends who are
closer to the scene, would like to comment?

1 Mrs. Marland: Are there garden centres that
are competitive to food chains?

2 Mr. Carter: Oh, yes. We carry a lot of items
that are in the plant and --

3 Mrs. Marland: No, but the reverse?

4 Mr. Faas: Nurseries carry items that we would
normally carry, yes.

5 Mr. Chairman: Mrs. Marland, thank you.
Ms. Hart.

6 Mrs. Marland: I think Mr. Carter asked for
someone else to also answer and you stopped him.

7 Mr. Chairman: Oh, I did not realize that.



1
2
3 Mr. Luedtke: One of the points that we are
4 concerned with, under the guise of being a nursery or
5 a drugstore, which we are seeing now, they are actually
6 opening food stores against us. I think some of the
7 things we show in our concern today is you can call it
8 what you will, but if they open the stores and they are
9 selling the products, that we sell, on Sundays, and
10 call it a drugstore or a nursery, that is what our concern
11 is.

12 If you look at their ads today, you can see it,
13 they are advertising more foods than drugs in some of
14 those ads, and they are open on Sunday and we are closed.
15 We have a lot of people that we are concerned with their
16 jobs, because if the business goes, and in the retail
17 business in the last few years, there have been many
18 changes, people coming and going, and a lot of unionized
19 chains, jobs have been lost, because of inequities that
20 we are seeing, and we are just asking for fairness, that
21 we all play on the same field and that is all we really
22 want.

23 Mrs. Marland: Thank you.

24 Mr. Chairman: Thank you, Mrs. Marland.
25 Ms. Hart.

Ms. Hart: Thank you, Mr. Chairman.

17 Nice to see you again, Mr. Carter. You have
18 appeared before a number of Committees that I have served
19 on. There are many interesting things in your brief and
20 I won't have time to canvass them all.

21 I would like to follow up just a bit on the
22 nursery question, because the deputant that we had,
23 told us that their prime market is three months of the
24 year and most of their business is done on the two weekend
25 days in the three months of the year, and that daylight
hours are crucial to their business. It seems to me
that is a different kind of thing than what you are
talking about? They were asking to be open on Sunday.



1
2
3 Could I have your comment about that?

4 Mr. Carter: Well, the retail business is a
5 very marginal business. We have a lot of retail operators
6 who are seasonal. I used to be in the Greeting Card
7 business and truly, the food business, it may look as
8 if it is all year round, we eat all year round, but a
9 fair bit of it is seasonal as well and our profits are
10 so thin, that if we lose that seasonality, we could
11 very well lose our profitability.

12 I think the argument we made before is one that
13 we should stick with and that is we have equality and
14 that we work on the same days. This does not get in the
15 way of their dealing with the seasonality of it, and we
16 would not want to do that, but we should all have an
17 equal chance at that.

18 Ms. Hart: On a slightly different subject,
19 the tourist exemption, we have heard time and time again,
20 This Act is fine, preserve the status quo, We like the
21 fact that Collingwood can be open and preserve the number
22 of grocery stores that can be open in Collingwood,
23 We like the fact that the Byway Market is open and
24 Ottawa, We like the fact that Queens Quay is open in
25 Toronto, or Chinatown. You are saying take that away
from the municipalities? They have it right now.
Could you elaborate a little bit on that, because it is
going to affect a hundred or more communities that are
fully participating now on Sundays.

18 Mr. Carter: we talked about this in our meetings
19 and we found that more were against these tourist areas
20 than were for them and I am wondering about your score
21 card? There are a lot of pseudo tourist areas and areas
22 that are not touristy at all. The customers that shop
23 there are not tourists, they are locals. There is a lot
24 that runs through that particular exemption and it is
25 a misnomer to a large degree.

23 I think what we are really getting at is it is
24 a little bit like the municipal option, where you create
25



1
2
3 the problem for neighbouring non-open retailers and you
4 put pressure on them to be able to open, and the same
5 thing is true for these tourist areas that are there
6 right now, we have got some very curious situations.
7 Maybe the retailers who are here right now would like
8 to speak to that. We do have some curious ones that I
9 have heard each of them mention, and as you have probably
10 heard.

11 Mr. Faas: There are some examples of a business
12 being declared a tourist area and it is an abuse, the
13 definition of it, but nobody has really come to grips
14 with it.

15 Ms. Hart: I actually explored with several
16 deputants in Ottawa, the question of the Byway Market
17 and one man in particular, agreed with me that more
18 locals -- it is a large market, mostly for fruit and
19 vegetables and flowers -- more locals used it than
20 tourists, but how do you say that Ottawa is not a tourist
21 area? That is the difficulty we are having, coming to
22 grips with what is a tourist area; and that is perhaps
23 one of the reasons why we are here?

24 Mr. Carter: Yes. We talked about that and
25 talked about Niagara Falls and about Mississauga and
all those things. We get really two things. One of
the peculiarities within the tourist area of picking
stores and choosing among them, and the biases which
that creates and the unfairness which that creates.

We also have the problem of selecting the
tourist area overall.

What we have decided to do is say we think
the whole thing should go out, it doesn't make sense,
and we should get rid of the whole thing should go out,
it doesn't make sense and we should get rid of the whole
thing.

We are prepared to be useful beyond this session,
if you like, and go through our list of pros and cons and



1
2
3 the way we talked about finding a middle ground, which
4 did occupy some of our time and discuss that with
5 you, using the resources of our particular industry, if
6 that is helpful.

7 Ms. Hart: I am very interested in a number of
8 different aspects. I do not really have time but, the
9 fact, it seems to me you are really saying unionized
10 employees are going to lose as opposed to the non-unionized
11 employees, but you had a very interesting suggestion
12 about the sectarian exemption, with respect to how you
13 designate a religion. You did not say that. That is
14 in the Bill.

15 What you said is that we should designate
16 recognized religious days of rest right in the Bill,
17 which is an interesting idea, because the competing
18 interests that we have to balance, is that people are,
19 for good reason, reluctant to designate anywhere, their
20 religion, because we have a country where there is
21 freedom of religion and we should not have to write it
22 down any where. I am not sure whether your suggestion
23 quite meets that, but it is certainly something we can
24 explore.

25 Mr. Carter: We were trying to raise the
economic potential problem, without regard to the
Bill of Rights and all that other stuff. We are saying
if sales were equal on every day, we would not have a
problem. But they are not, and I suppose, without knowing
a lot about it, currently Monday and Tuesday are not
terrific days, and if you want to do best, you pick the
religion that has to shut down on Monday and Tuesday.

Ms. Hart: We were concerned about that too and
that is why the chain that was required to designate one
religion, that does create some problems, as we have
heard. But we were concerned about a department store,
different stores in the chain, they would divide up the
market area, half would be open Saturday and half would
be open Sunday. So, there are a number of complexities
to this problem, but we will certainly look at your



1
2
3 suggestion.

4 Mr. Carter: Can I just respond quickly, Mr.
Chairman?

5 Mr. Chairman: Yes.

6 Mr. Carter: That point is a slightly different
7 one, about picking the religion by store, and we think
8 that is the fairest thing, because of facing independents,
9 who might be different in one trading area than another,
10 and a chain has to face them both in different trading
areas. So we felt strongly about that one. It does
put the chains at a disadvantage if they cannot do it
by store.

11 Ms. Hart: Thank you.

12 Mr. Chairman: Thank you very much, Ms. Hart.
13 Thank you very much, gentlemen. It is nice to have
the collective wisdom of all you gentlemen to assist
us in this problem. We appreciate it.

14 Mr. Carter: Thank you, Mr. Chairman, for
15 letting us appear before you. As mentioned earlier,
16 we are happy to follow that up, should we be able to
be useful on something like the tourist area or other
aspects.

17 Mr. Chairman: I am sure that has been noted.
18 Thank you. We stand adjourned until ten thirty on
Wednesday, October 5th.

19
20
21
22
23
24
25
028210028

NOV 9 1990

3 1761 11465836 2

